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# Present Irish Questions

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# Present Irish Questions

WILLIAM O'CONNOR MORRIS

COUNTY COURT JUDGE AND CHAIRMAN OF QUARTER SESSIONS OF ROSCOMMON  
AND SLIGO, AND  
SOMETIME SCHOLAR OF ORIEL COLLEGE, OXFORD

Νοσεῖ δέ μοι πρόπας στόλος, οὐδ' ἐνι φροντίδος ἐγγχος ὧ τις ἀλέξεται.

—SOPHOCLES.

'Blessed is the Amending Hand.'—*Old Proverb.*



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I DEDICATE THIS BOOK  
A TRIBUTE OF ADMIRATION AND ESTEEM  
TO  
THE MARQUIS OF DUFFERIN AND AVA, K.P.  
THE MOST DISTINGUISHED IRISHMAN OF HIS TIME

## Preface

I HAVE written much on Ireland from early youth, especially in the *Edinburgh Review* and the *Times*; and two works of mine, 'Ireland, 1494-1868,' published in 'The Cambridge Historical Series,' and 'Ireland, 1798-1898,' have been received with more than ordinary favour. I have ventured to think that the opinions of a veteran inquirer into Irish affairs, with respect to 'Present Irish Questions' just now of much importance, and certain to be ere long fully discussed in Parliament and elsewhere, may be of some use to a younger generation, that will have to examine and must be affected by them. I am not unaware of the cynical remarks of Swift on the disregard shown to authors who may be said to have had their day; and I do not pretend that, in the instance of myself, 'old experience' has given something of a 'prophetic strain,' to what is contained in this volume. But I can say, with truth, that few living men have had such opportunities as have fallen to my lot, during a long series of years, to understand Ireland in its different parts, and the feelings and sentiments of the Irish community; to form sound and moderate views on the many and perplexing phenomena called 'Irish Questions;' to deal reasonably with Irish political and social problems, free from the influences of party prejudice and passion; in short, to do my subject complete and impartial justice. How the accidents and associations of a life already protracted beyond the



## PREFACE

ordinary span, have, as I hope, given me these qualifications, I have explained at some length in my 'Ireland, 1798-1898;' I shall not repeat what I have already written. But Ireland has constantly been uppermost in my thoughts; and as regards the conclusions I have come to in these pages, I may say, with the Roman historian, '*hæc senectuti seposui.*'

The examination of 'Present Irish Questions,' in this work, shows the views I entertain with regard to the actual condition of Ireland in its various aspects, and to her probable future destinies. These views may be censured as too gloomy, and even paradoxical; but Ireland remains, as she was when Macaulay wrote of her, 'A member indeed of the Empire, but a withered and distorted member;' the revolution which has passed, nay, is still passing, over her, has destroyed a great deal that ought to have been preserved, and has put little that is solid and stable in its place; there is much that is threatening and even dangerous in her political and social order, and in the sentiments of the mass of her community. In the case of Ireland, indeed, as in that of any other people, I have faith in the effect of salutary legislation on wise and just principles, and of consistent good government steadily carried out, of both of which there has been but too little evidence, during the last twenty years, in Irish affairs; above all, my trust is large in the healing influences of Time. But I have not forgotten that the vision of '*Pacata Hibernia*,' which flitted even before the majestic understanding of Bacon, three centuries ago, has not been realised; the thoughtless optimism, which, during the last two generations, has represented Ireland to be in a state of continual 'progress,' nay, as 'contented and happy,' whenever she has not been convulsed by disorder and trouble, or racked by poverty and distress, has been completely falsified; and with nations, as with individuals, the profound remark of Butler is true; a life of repentance

often fails to redeem the errors of the past. I proceed to indicate some at least of the authorities which relate to the different parts of my subject. The material condition of Ireland of late years may, perhaps, be best ascertained by studying, over some length of time, the large body of statistics compiled by the Government, and contained in that valuable publication, 'Thom's Directory,' and by a perusal of the Irish debates in Hansard. Reference, too, should be made to the important papers of Mr. Childers, of Lord Farrer, and of Mr. Sexton in the Report of the Childers Commission, and especially to the evidence of Sir Robert Giffen, and even of Sir Edward Hamilton, in the Blue Books appended to that inquiry. 'England's Wealth, Ireland's Poverty,' by Thomas Lough, M.P., though a one-sided book, also deserves attention ; and useful information may be obtained from 'The Five Years in Ireland, 1895-1900,' of Mr. Michael J. F. McCarthy, too much a eulogy, however, of things as they are, and marked by a spirit of aversion to, and distrust of, the Irish priesthood, which are a characteristic of a small section of the Irish Catholics.

The sources of our knowledge respecting the moral, social, and political state of Ireland are numerous and ample ; I shall confine myself, as much as I can, to those which relate to what may be called her recent revolutionary period, though Irish history in the past, even in the distant past, is anything but an 'old almanack.' This mass of evidence faithfully represents the disturbances and the troubles that have prevailed in Ireland, with intervals of time between, during the last twenty years and upwards, and the fierce animosities and conflicts which have been the consequence. Here a reader should again consult Hansard, notably the debates on Ireland, during the agitated period from 1880 to 1889 ; of course he should only study the great speeches. The publications on this subject are very many, and some of real importance ; as

regards the policy and conduct of the Land, and even of the National Leagues, and the frightful outbreak of disorder and crime which was the result, nothing is equal in value to the Report of the Judges of the 'Special Commission,' and to the immense body of evidence brought before them; 'The Verdict,' by Professor Dicey, sums up well the conclusions at which they arrived. The utterances of the so-called Irish 'Nationalist' Press, throughout these years, fully verify the facts disclosed in the Report, and its findings; they have, indeed, been continued in a less ferocious and violent, but in a significant, strain ever since; a collection of them will be found in the volumes published by the Irish Unionist Alliance. On this subject, and also on the state of opinion existing among a large majority, probably, of the Irish people, see 'The Continuity of the Irish Revolutionary Movement,' by Professor Brougham Leech; 'The Truth about the Land League,' by Mr. Arnold Foster, M.P.; 'Parnellism and Crime,' republished from the *Times*; 'Incipient Irish Revolution,' anonymous but able; some valuable articles on Ireland by the late Lord Grey that appeared in the *Nineteenth Century*; 'Disturbed Ireland,' by Mr. T. W. Russell, M.P.; 'The Plan of Campaign Illustrated;' and 'About Ireland,' by Mrs. E. Lynn Lynton. The recent revolutionary and agrarian movements in Ireland have not found many to vindicate them, or even fully to explain their causes; but reference may be made to 'The Parnell Movement,' by T. P. O'Connor, M.P.; to the 'New Ireland' of Mr. A. M. Sullivan; to Mr. Barry O'Brien's 'Irish Wrongs and English Remedies;' and to a series of articles called 'Ungrateful Ireland,' in the *Nineteenth Century*, from the pen of Sir G. Duffy. A host of papers in quarterly, monthly, and other reviews and magazines on the political and social condition of Ireland of late years has, also, been published from time to time. Attempts have been made, quite recently, to show that the troubles of Ireland have

become things of the past, and that she is a prosperous and happy land ; but though real improvement has certainly taken place, these are mere repetitions of the optimistic fancies that have so often proved delusions.

The great question of Home Rule, 'present' if for a time postponed, was first put forward formally by the late Isaac Butt. His 'Irish Federalism' is a thoughtful and able treatise that ought to be studied. The speeches in Parliament, from 1874 to 1885, on this subject, collected in Hansard, deserve attention ; notably the violent attacks on this policy made during many years by Mr. Gladstone. Hansard, too, should be perused, after that statesman became a convert to Home Rule, for the speeches on both sides, on the Home Rule Bills of 1886 and 1893 ; some are of marked power and insight, though few rise to the heights of great constitutional principles. Mr. Gladstone's defence of his sudden change of front will be found in his 'History of an Idea,' a tract published soon after his defeat at the polls in 1886 ; he has endeavoured to vindicate his later Irish policy, in many pamphlets and speeches, in volumes collected by himself. For a masterly examination of his public conduct on matters relating to Ireland, and in some other passages in his career, I would especially direct the reader to the 'Memoirs of the late Lord Selborne,' part ii. vol. ii. pp. 339-360 ; Mr. Lecky's brilliant sketch in his 'Democracy and Liberty,' Cabinet Edition, Introduction, pp. 19-56, is a composition of rare excellence. Nothing is to be compared to Professor Dicey's 'England's Case against Home Rule,' and his 'Leap in the Dark,' for a thorough investigation, from the Unionist point of view, of the natural and the probable consequences of the Gladstonian Irish policy, and for an analysis of the two Home Rule Bills ; few political works have attracted equal attention. There have also been many publications, on the side of the Union, of more or less merit ; see 'Home Rule,' reprinted from the *Times*, containing several very

able letters and papers ; 'The Truth about Home Rule ;' 'A Sketch of Unionist Policy ;' and a number of articles in the *Edinburgh* and the *Quarterly Review*, and in other reviews and magazines. The publications which advocate Home Rule have not been numerous ; a reader may consult the 'Hand Book of Home Rule,' edited by Mr. Bryce, M.P. ; 'Irish Members and English Gaolers,' and 'Combination and Coercion,' by Mr. Shaw-Lefevre ; and some contributions to a few reviews and other serials.

The 'Present Question' of the Irish land, and of Irish landed relations, goes back to even remote antiquity, and is connected with the whole course of Irish history. The characteristics and peculiarities of tribal land tenure in Ireland, before the Anglo-Norman Conquest, have been admirably explained in Sir Henry Maine's 'Early History of Institutions,' a very valuable work. I may refer to an article on this book, from my pen, in the *Edinburgh Review* of July, 1875. See, also, the 'Senchus Mor,' and the 'Book of Aicile,' fragments of the Brehon Laws, well annotated by the late Professor Richey. The state of the Irish land, from the Anglo-Norman Conquest to the beginning of the Tudor period, has been fully illustrated in the 'Statute of Kilkenny,' edited by James Hardiman, whose learned commentary is useful and important ; in the 'Discovery' of Sir John Davies ; in Spenser's 'View of the State of Ireland ;' in the 'O'Conors of Connaught,' by the O'Connor Don ; in Hallam's 'Constitutional History,' vol. iii. chapter on Ireland ; and in Professor Richey's 'Lectures.' I have glanced at the state of Irish land tenure during the tribal and the feudal ages, in the introductory chapters to my 'Ireland, 1494-1868,' in the 'Cambridge Historical Series.' The most complete account, perhaps, of the confiscations of the Irish land, from the reign of Henry VIII. to that of Charles I., will be found in the 'Carew Papers,' edited by J. S. Brewer and William Bullen ; valuable information abounds in the 'State Papers relating to the reign of

Henry VIII.,' edited by Hans Claude Hamilton ; in 'The Life of Sir John Perrott and his Letters ;' in the 'Earls of Kildare,' edited by the Marquis of Kildare ;' in the 'State Papers,' edited by Hamilton, *ante*, 'relating to the reigns of Edward VI., Mary, and Elizabeth ;' in the 'Annals of the Four Masters ;' and see Davies and Spenser, *ante*. Several modern writers have treated this subject in their narratives of Irish history ; Froude's 'History of England,' vol. ii. ch. viii. ; vol. iv. ch. xix. ; vol. v. ch. xxviii. ; vol. viii. chs. vii.-xi. ; vol. x. ch. xxiv. ; vol. xi. ch. xxvii., may be consulted ; but a reader should be put on his guard against the brilliant but partisan historian. There is a valuable chapter also, in a very different work, Mr. Lecky's 'History of England in the Eighteenth Century,' vol. ii. ch. vi. pp. 92 *seqq.* ; and a great deal may be learned from the 'O'Conors of Connaught,' and Richey's 'Lectures,' *ante* ; and especially from an 'Historical Account of the Plantation of Ulster,' by the Rev. George Hill, and from Sigerson's 'History of Irish Land Tenure.' In the momentous period of confiscation, from the beginning of the reign of Charles I. to that of William III., a reader should study 'Strafford's Letters ;' Carte's 'Life of Ormond ;' Lord Clanricarde's 'Memoirs ;' the 'Letters of Cromwell,' edited by Carlyle ; the 'Acts of Settlement and Explanation ;' the 'Articles of the Treaty of Limerick ;' Sir William Petty's 'Political Anatomy of Ireland ;' 'Macariæ Excidium ;' and the Abbe MacGeoghegan's 'History of Ireland.' The modern authorities on this period are numerous and some of great value ; see Gardiner's 'History of the Commonwealth and Protectorate' (the Irish chapters), notably vol. iii. ch. xlv. ; 'The Cromwellian Settlement of Ireland,' by John P. Prendergast ; 'The Life of Sir William Petty,' by Lord Edmund Fitzmaurice, with an article by me in the *Edinburgh Review* of July, 1895 ; 'The Patriot Parliament,' by Thomas Davis ; Macaulay's 'History of England' (the



Irish chapters), vol. iv. ch. xxii. ; vol. v. ch. xiv.-xvi. ; vol. vi. ch. xvii. ; and Mr. Lecky's 'History,' *ante*, vol. ii. ch. ix. Many instructive and philosophic passages on all these confiscations and their results, will be found scattered among the writings of Burke ; they are admirable.

The era of violent confiscation closed with the reign of William III. ; the modern history of the Irish land system begins from this period. For an account of the penal code, as it affected Irish landed relations, reference may be made to Vincent Scully, 'On the Penal Laws,' to Howard's 'Popery Cases ;' and especially to Burke's 'Tracts on the Popery Laws.' Much, too, can be gathered from Curry's 'State of the Irish Catholics ;' from Primate Boulter's and Archbishop Synge's 'Letters ;' from the writings on Ireland of Swift and Berkeley ; and from various passages in the 'Works and Correspondence of Burke.' For the state of the Irish land from the beginning of the reign of George III. to the Rebellion of 1798, study the celebrated 'Tour' of Arthur Young, written in 1776-78 ; Crumpe's 'Essay ;' an admirable sketch by Mr. Lecky in his 'History,' *ante*, vol. vii. ch. xxvii. ; and Sir George Lewis on 'Irish Disturbances,' a book which gives an account of the rise and progress of the Whiteboy movement, and carries the narrative down to 1836. Froude has illustrated this subject very skilfully in his 'Two Chiefs of Dunboy ;' but his account, in his 'The English in Ireland,' is very inaccurate and one-sided. The nature of Irish landed relations during the troubled period before the Union is fully explained in many passages of Mr. Lecky's 'History,' *ante*, vols. vii. and viii. ; and the reader should peruse Lord Clare's speech in the Irish House of Lords during the debates on the Union. From the Union to the present time, the authorities on the Irish land system are very numerous ; it is not easy to make compendious selection. For the period of the Great War, Edward Wakefield's

'Account of Ireland' is valuable, and so is, for the immediately subsequent period, the evidence on the state of Ireland taken by a Committee of the House of Commons in 1825. The nature and the characteristics of the Irish land system, in 1843-44, are fully explained and commented upon in the well-known Report of the Devon Commission, and the voluminous evidence; and for the revolution wrought in the Irish land by the Famine of 1845-47, see the 'Irish Crisis,' by Sir Charles Trevelyan, republished from the *Edinburgh Review*; and a 'History of the Great Irish Famine,' by the Rev. John O'Rorke. Much information, too, on the subject, as a whole, may be obtained from 'L'Irlande, Sociale, Politique, et Religieuse,' of Gustave de Beaumont; from 'Ireland from the Treaty of Limerick to 1851,' by John Mitchell; from parts of 'Two Centuries of Irish History,' edited by James Bryce, M.P.; from several 'Reports' of the Loyal National Repeal Association; and from parts of Mr. Barry O'Brien's 'Fifty Years of Concessions to Ireland,' and 'Irish Wrongs and English Remedies.'

The Irish land question has given birth to a literature of its own in the last half-century; legislation on the Irish land system has been extraordinarily active. With respect to the first, reference may be made to 'Two Centuries of Irish History,' *ante*, and to Mr. Barry O'Brien's works, *ante*; to 'Emigration and the Tenure of Irish Land,' by Lord Dufferin; to John Stuart Mill's 'The Irish Land Question'; to 'The Irish People and the Irish Land,' by Butt; to Sir George Campbell's 'The Irish Land,' a very good little book; to Judge Longfield's essay on the Irish land in 'Systems of Land Tenure'; and to my own 'Letters on the Land Question of Ireland,' republished from the *Times*. I am happy to think that, on this subject, I have always 'pitched my Whiggery low'; my first essay was on the Encumbered Estates Act; when fresh from Oxford I condemned that scheme of confiscation as unequivocally



as, in the present and other works, I have condemned Irish agrarian legislation since 1880-81. Other books contain passages on the Irish land system that may be read with profit; see the 'Recollections and Suggestions' of Earl Russell; 'Ireland in 1868,' by Gerald Fitzgibbon; 'Ireland,' by Lord Grey; 'Journals, Conversations, and Essays relating to Ireland,' by Nassau Senior; and 'New Views on Ireland,' by Lord Russell of Killowen. As regards recent legislation on the Irish Land, from 1870 to 1896, the Acts passed by Parliament must of course be studied, and also the important debates reported in Hansard. Butt wrote a very able volume on the Land Act of 1870; I contributed a short treatise; an exhaustive and technical work of great value, on all the Irish Land Acts, has been produced by Messrs. Cherry and Wakely; this, with the Irish Reports, supplies ample professional, and even general, information. With respect to the administration of the Irish Land Acts, see the Report of the Committee of the House of Lords, and the evidence published in 1872; the Report of, and the evidence collected by, the Bessborough Commission of 1880-81; the Report of a Committee of the House of Lords on the working of the Land Act of 1881, published, with the evidence, in 1882; the Report, with the evidence, of the Cowper Commission, 1888-89; the Report, with the evidence, of the Morley Commission, 1894-1895; and, especially, the Report of Sir Edward Fry's Commission of 1897, with the important evidence it has put together. Mr. Lecky, in his 'Democracy and Liberty,' vol. i. ch. ii., has criticised, almost as severely as I have done, recent Irish agrarian legislation; no serious defence of it has ever been made or attempted.

To understand the real state of the financial relations between Great Britain and Ireland, it is necessary to go back to the times of the Union; those who resist the Irish demand avoid an appeal to history. The debates

in the Irish Parliament in 1800 should be carefully studied, especially the speeches of Castlereagh, Grattan, and Foster. The Seventh Article of the Treaty of Union, set forth in this work, should also be diligently scanned and perused. See, too, the debates in the Imperial Parliament in 1816; the resolutions passed by the House of Commons in that year; and the Act abolishing the separate Exchequer of Ireland. Reference, moreover, should be made to the evidence taken before General Dunne's Committee in 1864, in which sophistry triumphed for the moment over truth. All these sources of information, however, are scanty and imperfect compared to the celebrated Report of the Childers Commission, with the valuable evidence annexed to it; this for the first time completely brings out the whole facts on the subject. The debates in Hansard on the financial claims of Ireland may also be looked at; but they are not of peculiar importance; the same remark applies to nearly all the articles in reviews, magazines, and journals, in which endeavours have been made to answer the Report. I may be allowed to say that I have some claim to have a distinct opinion in this matter; when still quite a boy I often heard my grand-uncle, the late Sir John Newport, one of the ablest and last of the Chancellors of the Irish Exchequer, condemn the financial treatment of Ireland from 1800 onwards; many years afterwards I was intimately acquainted with several of the independent Irish gentlemen, survivors of the great school of Grattan, who protested against Mr. Gladstone's fiscal Irish measures from 1853 to a later date; Butt and Judge Longfield, both very able economists, fully concurred. With respect to local government and administration in Ireland, see Mr. Barry O'Brien's 'Fifty Years of Concessions to Ireland,' vol. i. books iv. and v.; the Report of the Commissioners on Irish Corporate Reform issued in 1833-34, and the Irish Municipal Corporation Reform Act of 1840; the Irish Towns Commissioners Acts; a

report made by Mr. W. P. O'Brien in 1878 ; a good treatise by Mr. Bailey published in 1888 ; and the recent Irish Local Government Act of 1898, with the debates in Hansard on this measure, should be perused. The authorities on Irish education of all kinds are numerous, and some valuable. Froude has glanced at the subject, with characteristic unfairness, in his 'The English in Ireland ;' the refutation of Mr. Lecky, in his 'England in the Eighteenth Century,' is complete. A good description of education in Ireland, in all its branches, as it existed in 1812, will be found in Edward Wakefield's 'Account of Ireland,' vol. ii. ch. xxiv. ; another in Mr. Barry O'Brien's 'Fifty Years of Concessions to Ireland,' vol. i. book i. ; vol ii. book x. ; the author brings the narrative down to 1881. As regards high education in Ireland, reference may be made to 'The History of the University of Dublin,' by the Rev. W. Stubbs ; to 'The Constitutional History of the University of Dublin,' by D. C. Heron ; to the Report of Archbishop Whateley's Commission, in 1853, on the University of Dublin ; to Mr. Gladstone's Irish University Bill of 1873, and the able debates on the subject in Trinity College and the House of Commons ; to Mr. Fawcett's Act of 1873 ; to a masterly pamphlet by Butt, on the whole question, published in 1875 ; and to the 'Irish University Question,' by Archbishop Walsh, with recent debates in Parliament on Irish University reform. For the nature, constitution, and working of the Queen's Colleges and the Queen's University, see the debates in Parliament when Peel introduced this policy ; many Reports ; the work of Archbishop Walsh, *ante* ; and the Act creating the Royal University in Ireland may be examined. As regards primary and secondary education in Ireland, see the Reports of the Education Commissioners from 1810 to 1825 ; the Reports of the National Education Board ; the Reports of the Kildare, Rosse, and Powis

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Commissions, noticed in this work ; and Mr. Godkin's 'Education in Ireland.' An excellent synopsis of the subject, as a whole, will be found in 'The Educational Systems of Great Britain and Ireland,' by Mr. Graham Balfour.

WILLIAM O'CONNOR MORRIS.

GARTNAMONA, TULLAMORE,  
14th May, 1901.



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# Present Irish Questions

## CHAPTER I

### IRELAND IN 1901

Ireland has passed through a revolution in the Victorian age—Material progress—Dublin—Belfast—Improvement in Catholic places of worship and in the habitations of the people—State of the Irish community—Symptoms of retrogression—Decline of agriculture—The progress of Ireland much less than that of England and Scotland, and why—State of the Irish land system—Recent legislation has done some good, but it has been unjust, and has had pernicious effects—Ireland divided into three peoples—Notwithstanding great reforms Catholic Ireland is still, in the main, disaffected—Presbyterian Ireland—Cry for the confiscation of the Irish land—Protestant Ireland—Fall of its old ascendancy—Discontent among the landed gentry—Nature of the government of Ireland by the Imperial Parliament—Its merits and defects—Attitude of the greater part of Ireland towards it—The administration of Irish affairs—The bureaucracy of the Castle—The Anglican, Presbyterian, and Catholic Irish Churches—The administration of justice in Ireland—Irish literature and public opinion—General survey of the present state of Ireland—Irish policy of Lord Salisbury's ministry—'Present Irish Questions' to be discussed in this work.

To understand thoroughly the Ireland of the present day, it is necessary to have studied her history in the past. Nevertheless, if we go back to a comparatively recent period, say to the beginning of the reign of Victoria, we can obtain a reasonably clear idea of her existing condition.

A revolution has passed over her in this space of time almost as complete as the revolution which has transformed France ; the results have not yet been fully developed, but in nearly all respects they have been immense. The community has, for the most part, made material progress ; but this has been far from great or decisive ; it has been interrupted by seasons of distress, one culminating in a dire catastrophe, and has been retarded by many causes of trouble. Taking the external aspect of Ireland first, Dublin has certainly advanced in the last sixty years ; the capital has been surrounded by fine and increasing suburbs ; the squares, the streets, the shops have improved ; above all, though much remains yet to be done, the contrast between the dwellings of the rich and the poor is much less painful than it was within living memory. No city, however, has made such progress as Belfast : its population, which, in 1841, was not more than 75,000 souls, was, in 1891, upwards of 255,000 ; \* its opulence has probably grown tenfold ; it is the centre of the great manufacture of Ulster ; its building-yards are renowned for its magnificent ships ; its estuary is crowded with the thronging fleets of commerce. The towns dependent on it, too, and the whole adjoining region, are flourishing from the great trade in linen, which has been aggregated within a comparatively small space ; indeed, this prosperity has extended over all the north-east of Ireland, and Londonderry has long been a thriving seaport. Few of the towns of the rest of Ulster and of the southern provinces have improved ; but signs of augmented wealth appear in other directions ; in this respect they are striking in the extreme. The places of worship and the religious houses of the Catholic Church of Ireland have been transformed ; the mean 'chapels' of the past have largely disappeared ; most parishes have a suitable church ; fine cathedrals dominate many towns ;

\* It considerably exceeds 300,000 by the figures of the census of 1901.

we often admire monasteries and convents in architectural splendour. The most remarkable phenomenon, however, of this description is the great and fortunate change which has taken place in the habitations of the community throughout the country. The dense and wretched hovels which, sixty years ago, barely sheltered the millions of Irish indigence, if still too frequent, have been, for the most part, effaced ; the houses of the better class have greatly increased in numbers, though the population has enormously declined.\* And the face of the landscape in most counties bears witness, on the whole, to a still perceptible progress. The chief industry of Ireland, indeed, as I shall show afterwards, has certainly retrograded within the last twenty years ; her agricultural area and resources have much diminished. The advance, too, which, from about 1853 to 1876, was manifest and rapid in most of her rural districts, has been, to a considerable extent, checked ; capital has, for some time, been avoiding her soil. But if the process was stern, nay, appalling, the land has, within the last half century, been thrown open to husbandry, infinitely better and more fruitful than had existed before ; the exertions which were made, for a long space of time, to improve cultivation have left far-spreading traces ; we still behold the beneficent results. The land over the greater part of its surface is not ‘puckered up’ in thousands of squalid patches, the holdings of masses of cottar paupers ; it has been made more available for real farming ; and it has been largely drained, enclosed, and covered with woodland—at least, up to a recent period.

		1841		1891
Houses of the first class	...	40,080	...	70,740
„ second class	...	264,184	...	466,632
„ third class	...	533,297	...	312,589
„ fourth class	...	491,278	...	20,617

These figures are taken from that most valuable publication, ‘Thom’s Irish Directory for 1901,’ p. 631. It contains the statistics of Ireland carefully compiled from official sources.

The material condition of the Irish community has, also, improved since the late Queen ascended the throne. This, no doubt, is to be largely ascribed to the effects of the great Famine of 1845-47, and of the immense emigration that followed in its train. The resources of Ireland, before that calamity, were unable to support, in anything like comfort, the teeming multitudes crowded on her soil ; an official report, made in 1838, proved that two millions and a half of the poor in Ireland were for months in the year on the brink of starvation ; this huge mass of indigence, which forced up rent, beat down wages, and was most injurious to good husbandry, was almost incompatible with real social progress. The great and continuing exodus of the Irish race, which has gone on for more than half a century, has not been without untoward results ; but it has relieved the country from a destructive incubus ; and this has certainly wrought a beneficent change, though the population has declined from about eight millions in 1837 to about four and a half millions in 1895.\* Ireland, indeed, is still, mainly, a poor country—in some districts she is exceedingly poor ; but the disappearance of overwhelmingly redundant millions has enabled her to maintain the millions that have remained much better than of old, and has distinctly raised the standard of living among all the humbler classes. The wages of agricultural labour, seldom more than six or seven shillings a week before the Famine, and then paid in potatoes by a vile truck system, have risen to ten and even twelve shillings, usually paid in cash ; and they have not fallen, though Irish agriculture is very far from prosperous. The wages of the higher kinds of labour have also greatly increased ; this is apparent in nearly all trades, and is especially apparent in the trades of Ulster. At the same time, the potato has long ceased to be the sole food of the poor ; their dwellings, though still too often mean and bad, are infinitely better than they once were ; their

\* There has been a small decrease since 1895.

attire, and even their appearance, has greatly improved. I do not think, indeed, that O'Connell's description of the peasantry of Munster in 1825 could now be fairly applied to even the worst parts of Ireland, the impoverished tracts on the seacoast of Connaught: 'They have no clothes to change, they have none but what they wear at the moment. . . . Their food consists of potatoes and water during the greater part of the year; potatoes and sour milk during another portion; they use some salt with their potatoes when they have nothing but water.'\* There is evidence, also, that, even of late years, the wealth of Ireland has, in some measure, increased, especially in the middle and lower middle classes. The landed gentry, indeed, owing partly to the effects of Free Trade, and partly to those of legislation I shall describe afterwards, have been impoverished in many instances, and in many ruined; and the Irish tenant farmer, if gorged by the spoil of his landlord, has not gained all that an agrarian revolution was expected to give him. But the commerce of Ireland has made progress, within the last two decades, if this has not been by any means great; and though the capital she holds in the best securities has perceptibly diminished of late years, there has been a very large increase in most kinds of other investments.†

This picture of Ireland, however, has dark features; her welfare has been, at best, partial; considerable deductions must be made from it. The progress of the capital, as

\* Evidence taken before a Select Committee of the House of Commons, 1824-25, vol. i. p. 49. The whole of O'Connell's evidence should be studied.

	1894		1900
† Funded Debt held in Ireland ...	£22,917,530	...	£18,303,627
Government Funds and other securities: India Stock, Land Stock, War Stock, Joint Stock Banks, Trustee Savings Banks, and Post Office Savings Banks ...	£67,432,000	...	£77,494,000
'Thom's Directory, 1901,' p. 718.			



has been the case in London, is largely to be ascribed to the depletion of many country districts, a change that has been going on for a long period, and has been accelerated by the decline of the landed gentry in wealth. The enormous advance of Belfast, and of the adjoining neighbourhood, has been, to a great extent, caused by the concentration of the linen manufacture within a small area; the hand-loom has disappeared from Ireland; this has been injurious to many petty towns and villages. The population and the trade of nearly all the chief towns in the southern provinces have diminished; Cork, with its immense natural advantages, has not prospered; Limerick and, notably, Galway are in decay; most of the inland towns show few signs of improvement; the outskirts of almost all are defaced by lines of ruined hovels, the wrecks of abodes a dwindling tale of indwellers has left. Many of these urban centres were, sixty years ago, seats of manufactures and of other industries, which, to a certain extent, were flourishing; but these sources of wealth have, for the most part, been dried up; they have been blotted out by the gigantic manufactures of England and Scotland poured into Ireland, everywhere, within a few hours, by steam. The collapse, indeed, of Irish manufactures in the last half century has been striking and mournful; 696,000 persons were employed in textile and dyeing industries in 1841; in 1881 there were only 130,000; and though the growth of machinery may in part account for this difference, it assuredly cannot fully explain it.\* The same remark applies to Irish fishing industry; the small craft which once swarmed along the coast, and, rearing a breed of hardy mariners, gathered in the prolific harvests of the sea, have been vanishing year after year; in 1867, 9332 boats, and 38,444 men and boys were engaged in

\* See the remarkable evidence of Mr. Booth, a high authority, taken by the Childers Commission, 'Minutes of Evidence,' vol. ii. pp. 212, 213. This should all be studied.

this calling ; the numbers were 5646 and 21,940 in 1891.\* Turning to the face of the country, agriculture, we have seen, has improved, if we look back to the period before the Famine ; but it is still centuries behind that of England and Scotland, and of late years it has markedly declined. It is not only that the prices of agricultural produce are much less than they were, in the last generation, and that its total value has fallen from £97,885,000 in 1851-55, to £88,955,000 in 1889-93.† The agricultural area of Ireland has diminished from 1879 to 1899 by rather more than 400,000 acres ;‡ and it is absolutely certain that within these decreasing limits, as I shall point out in subsequent chapters, agriculture has made little or no progress, and in some districts has distinctly become worse ; we see the results of the vicious legislation of the last twenty years in deteriorated farms, in hundreds of cases, in a most injurious neglect of arterial drainage, and in the destruction of thousands of acres of woodland. And the ruin which has overtaken many of the landed gentry has been made only too manifest in the desolate aspect of scores of country seats, once happy homes, that now know their owners no more.

It must be borne in mind, too, as we examine the present state of Ireland, that if, on the whole, she has made some progress, she is still, as I have said, a poor country, and that a considerable part of Connaught, her western province, has, for years, been in so poor a condition, that the Government of late has laudably made a great effort to raise it out of the depths of indigence. Other considerations, moreover, must be taken into account, if we would form a just conclusion as to the material

\* 'Thom's Directory, 1901,' p. 699.

† Report of Childers Commission, p. 43—

			1851-55		1889-93
Crops	...	...	£58,537,000	...	£34,643,000
Stock	...	...	£39,348,000	...	£53,312,000

‡ 'Thom's Directory, 1901,' p. 684.

position of Ireland, and, especially, as to her material prospects. The reduction of her population, up to a certain point, was an essential condition of her social progress; but that limit appears to have been far surpassed; this continuous decline, during more than half a century, has become an ominous symptom. More than 3,700,000 of souls have emigrated from Ireland since 1851;\* and this number does not include the masses which fled from the catastrophe of 1845-47. This immense drain on the life of a nation has, for years, had a pernicious effect; in large parts of the country labourers have become so scarce that it is often difficult to save the harvest, which should be quickly gathered in, in a wet climate; and hands are wanting to industry in many places. Emigration, too, has taken away the best part of the people, men and women in the flower of existence; the reproductive power of the community has, accordingly, declined; the birth-rate of Ireland is less than it was; infirmity, disease, and, notably, insanity have increased; the population of the towns is seldom active and thriving.† At the same time, the taxation of Ireland has become many degrees more excessive in the last sixty years; the local rates have advanced from about £1,000,000 to nearly £4,000,000; the general taxation has been well-nigh doubled; and a tribunal of the very highest authority has recently declared that Ireland is immensely overtaxed, and has been for upwards of forty years. Nor can there be a real question but that large interests connected with the land have suffered greatly in the period that has now extended from 1878-79. It is unnecessary to refer to the condition of the landed gentry; I shall notice it at some length afterwards; but, much as the Irish people dislike the Poor-law, pauperism has distinctly increased

\* 'Thom's Directory, 1901,' p. 629.

† See the striking observations of Mr. Childers, well worth serious attention: 'Report of the Childers Commission,' pp. 186, 187.

during the last ten years, though the population has fallen off in numbers, and the charge of pauperism shows a corresponding increase.\* The Income Tax returns, too, as regards the land, are of sinister omen; those under Schedule A have greatly diminished since 1890; and there is a considerable decline of property in the Funds.† As to the argument that the Tenant Right of the Irish farmer has risen in value, and that this proves Irish agriculture to be in a prosperous state, this is a complete, nay, a grotesque, fallacy. The rise in the value of Tenant Right is simply one of the many signs that a huge confiscation has taken place in the Irish land.

If Ireland, therefore, has made material progress, this has been slow, partial, and with large drawbacks; such as it is, it must be mainly ascribed to the results of the Famine, which liberated the soil from a destructive burden. The whole country, it has truly been said, has still too much the look of a 'great neglected estate,' requiring development in most of its parts; large sections of the population are poor, feeble in health, and backward. Any advance, moreover, which Ireland has made in well being, since 1837-38, is as nothing compared with the extraordinary growth of the prosperity of England and Scotland, within the same period. True-hearted Irishmen grieve as they pass from the lesser to the greater island, and contrast the husbandry of Galway and Mayo with that of the Lothians and Kent; as they gaze on the Shannon, with scarcely a sail on its waters, and the Clyde teeming with its fleets of commerce; above all, as they turn from the decaying towns of their own country to such centres of wealth and

\* 'Thom's Directory, 1901,' p. 662. Number of paupers relieved in 1890, 454,178; in 1898, 525,104. Charge in 1890, £856,008; in 1898, £981,333. These are the latest returns.

† 'Thom's Directory, 1901,' p. 674. Assessment of lands, in 1890, under Schedule A, £12,736,967; in 1899, £11,664,453. Funded property at the same periods, £803,300 and £615,630. These, too, are the latest returns.

of gigantic trade, as some even of the provincial cities of Britain, not to speak of the mighty world of London. The causes, indeed, of this contrast may be easily found; the mineral resources of Ireland are scanty; her commerce and manufactures are small; she is essentially an agricultural land, which has lost much from the effects of Free Trade; she has suffered greatly from misgovernment, agitation, and social disorder; all this has kept her back in the national race. The mineral products, on the other hand, of England and Scotland are immense, and of the first importance in an age of invention; they have decisively contributed to the huge development of the opulence and the trade of Great Britain; the policy of Free Trade, carried out for years, has had marvellous results in the same direction; if British agriculture is not progressing, British commerce and manufactures are still supreme; and Great Britain has been for ages a law-abiding land, in which order has been happily combined with liberty. These considerations fully explain the wide and ever-increasing distinction between Ireland and England and Scotland, only too manifest; they have been amply verified by unerring statistics. Two figures may suffice for a general reader; the resources of Ireland were estimated, a few years ago, at a sum of about four hundred millions sterling, that of Great Britain at not less than ten thousand millions.\*

\* 'Report of the Childers Commission,' p. 72. I cite also the following from the Report, p. 43: 'The income-tax figures are, perhaps, the best and most complete test of the comparative growth of the wealth of the two countries. Taking the two years, 1854 and 1892, we find that the net assessment for Great Britain was, in 1854, £245,389,931; and in 1892, £570,971,740. The net assessment for Ireland was, in 1854, £21,334,448; and in 1892, £26,851,585. In these thirty-eight years the net assessment for Great Britain is more than two and a third times as great as it was in 1854, whilst that for Ireland has only increased by one quarter. Put in percentage form, the figures are still more striking: In 1854 Great Britain was assessed at 92 per cent. of the whole; Ireland 8 per cent. In 1892 Great Britain was assessed

The social structure of Ireland springs from the soil ; it is most apparent in the relations that have been formed in the land. I shall dwell, at some length, in other chapters of this work, on the history and the characteristics of the Irish land system, and on the revolution through which it has passed ; I can here only briefly glance at the subject. That system, at the beginning of the late reign, still represented, in many respects, the features it had borne in the eighteenth century, though these had been, in a great degree, modified. The land, over four-fifths of its surface, was still in the ownership of a small class of men, divided in race and faith from its occupants ; the conquests and confiscations which had drawn deep lines of distinction between the Anglo-Protestant landlord and the Catholic and even the Presbyterian peasant, had still left their indelible traces, if these had been, to a considerable extent, effaced. Absenteeism had increased since the Union, though absentee estates were showing signs of improvement ; middleman tenures, with their manifold and complex mischiefs, were disappearing, but were still numerous ; various causes, to operate for many years, were diminishing the security of the peasants' tenure. The power of the dominant landlord class was declining ; it was being weakened by the Castle bureaucracy, and by the emancipation of Catholic Ireland ; but it was still nearly supreme in landed relations ; this class was all but the absolute lords of the tillers of the soil. It is untrue that it was oppressive and unjust as a rule ; but some of its members abused their excessive power ; it had too much in common with an exclusive caste ; and a whole train of economic causes were aggravating the evils of a land system from its origin placed on unsound foundations. Agriculture was advancing in not a few counties ; many of the landed gentry were improving at 95·50 per cent. of the whole ; Ireland 4·50 per cent. In other words, Ireland's assessment was to that of Great Britain as 1 to 11 in 1854, and as 1 to 21 in 1892.'

men, who were making a beginning in the scientific farming, which, before long, was to be more fully developed. But the population, we have seen, had increased by millions Ireland could not support ; over whole districts, especially in Munster and Connaught, the land had been split up into petty holdings, the seats of a huge multitude of human misery. Rents, therefore, were being unnaturally forced up, and the wages of labour unnaturally cut down ; the land system was disorganised, and filled with dangerous elements. The worst vice of the system, however, has yet to be noticed ; from different causes which I shall point out afterwards, the occupiers of the soil in Ireland had, as a general rule, made even the permanent improvements on their farms, and large sums had repeatedly been paid on the transfer of these ; they had thus gradually acquired concurrent rights in the land, in tens of thousands of instances ; and yet these were outside the pale of the law, and could be annihilated by eviction, or even the raising of rent. These rights had the support, in parts of Ulster, of a long-established custom, and were usually respected in the southern provinces ; but they ought long before to have had full legal protection ; and they were sometimes violated or disregarded by unscrupulous landlords. The results were seen in the White Boy and the agrarian disorders which had disturbed Ireland for more than a century, and even ran back to the confiscations of the past.

This land system, essentially bad as it was, marked by evil distinctions and pregnant with wrong, scarcely attracted the attention of British statesmen, until nearly the middle of the nineteenth century. Peel was the first minister who, even dimly, perceived its vices ; he appointed a Commission to report on the subject. The labours of this body were, in part, laudable ; but the Commissioners, filled with prejudice as to the excellence of British land tenure, and without experience of that of Ireland, made a capital mistake in the suggestions they offered. Instead

of recommending that the concurrent rights of the Irish tenant in the land, often equivalent to a real joint ownership, should receive, as was but just, the sanction of law, they proposed to restrict these in many ways; they put forward a plan of 'compensation,' as they called it, that was worse than useless. Legislation to this effect was withdrawn from Parliament; the terrible visitation of 1845-47 had ere long shattered the Irish land system, bringing ruin on hundreds of the landed gentry, making thousands of farmers of the better classes bankrupt, forcing the petty holders of the land—the cottar population, as it was named—to fly from the country in despairing multitudes. The land was largely set free from a dense mass of wretchedness; it was the general belief of the public men of the day, that what was most required, at this conjuncture, was to attract men of capital to it to do it justice, and to get rid, as quickly as possible, of the large body of Irish landlords, who, even before deeply involved in debt, had been made hopelessly insolvent by recent events. The Encumbered Estates Act became law, with scarcely an opposing protest; it was to 'regenerate Ireland,' its authors proclaimed; its results were to develop a bad class of landlords, to annihilate the rights of the Irish peasant wholesale, and to cause an iniquitous confiscation on an enormous scale. The Irish Land Question, as was the phrase, was now raised once more; in 1852 the occupiers of the Irish soil set on foot an agitation to vindicate their rights, destroyed or endangered by what had lately occurred; the Government of Lord Derby lent a favourable ear; but it was defeated in the House of Commons by intrigue; the land system remained in the state in which it had been left; no real attempt to improve it was made. A series of years followed in which Ireland made distinct progress, and her agriculture advanced; it became a fixed idea with British statesmen, that there was nothing radically bad in Irish land tenure, and that its



defects would gradually disappear ; the grievances of the Irish peasant were ignored ; his claims to what was now known as his Tenant Right, urged feebly by his advocates, were voted down in Parliament ; and a general belief prevailed that what Ireland most needed was a still further and steady removal of what was deemed 'her surplus population' from her soil.

As has so often happened in the affairs of Ireland, her real condition at this period was not understood ; and the reform in her land system, which had become essential, was indefinitely delayed with disastrous results. Meanwhile, though things were serene on the surface, the inherent vices in Irish landed relations were not really changed, and, in some respects, were made worse. The Fenian troubles and outbreak of 1865-67 showed how much there was still peccant in the state of Ireland ; Mr. Gladstone addressed himself, in 1870, to the task of effecting a reform in her land system. The measure he carried through Parliament was bold, and, in the main, statesmanlike ; but it was injured by the predilection for English land tenure its author avowed, a general misconception of British statesmen ; it was not without marked and even grave defects ; and though unquestionably it did real good, it did not satisfy the tenant class—at least, the men who had become its leaders. In a few years the frightful period of the Land League had begun ; a Reign of Terror prevailed in about a third part of Ireland, accompanied by far-spreading and atrocious crime. The movement was really a huge conspiracy, formed in America to overthrow British rule in Ireland ; but Mr. Gladstone, now minister for the second time, resolved to deal with it only on its agrarian side ; he wrought a complete revolution in the Irish land system, on principles wholly different from those of his measure of 1870. This legislation was prepared without reflection ; it passed through Parliament when that assembly was almost in a state of panic ; its

author professed that his only object was to secure the occupier of the Irish soil in his legitimate rights ; but the methods he adopted to attain this end have never been heard of in modern times, and have never been employed before in civilised lands. The principle of the mediæval statutes, which endeavoured to fix the price of bread, and the rate of wages, was extended to the Irish land system ; rents were to be adjusted through the agency of the State, by tribunals to which no parallel can be found ; tenants' improvements were declared exempted from rent ; and a mode of land tenure, hitherto condemned by Mr. Gladstone, and known as the 'theory of the Three F's,' was applied to the great majority of Irish tenancies, in an exaggerated, crude, and dangerous form. This legislation, revolutionary and socialistic alike, has been given more ample scope in the last twenty years ; it probably affects four-fifths of the rented lands in Ireland ; it has fashioned the type of land tenure over nearly all the country. The successors of Mr. Gladstone, who, indeed, had boasted that it set the doctrines of Adam Smith at naught, were not blind to the evils it soon developed ; but it is questionable if their attempts to mitigate these, and to place the Irish land system on a better basis, have not been at least as open to censure. With the ignorance of Irish land tenure common in British statesmen, they proclaimed, what assuredly was not the fact, that Mr. Gladstone had 'created a dual ownership' in the Irish land, and that, in order to get rid of this intolerable thing, it was necessary, in accord with English ideas, to bring Ireland, as far as possible, under 'single ownership,' and to make the occupiers of the Irish soil, to a large extent, its owners. The system of 'Land Purchase' in Ireland, begun in 1870, was freed from the limitations which made it safe and just, and widely enlarged under new conditions ; Irish tenants were encouraged to acquire the fee in their holdings, by a process never contemplated before ; instead of having to

pay any part of the price, the State advanced them the whole purchase moneys, repayable by an annual charge much less than any true rent. About a tenth part of the tenant class of Ireland have become owners of their farms by these means ; the transaction has been in no sense a 'purchase ;' though given the name, it is really the exact opposite.

I shall describe all this legislation, in detail, afterwards, and shall indicate its far-reaching effects ; here I can only take a cursory survey. The attempts that have been made to reform the Irish land system, in the last sixty years, have been, with scarcely an exception, failures ; the Irish land, it has truly been said, is strewn with the wrecks of repeated errors. The Land Act of 1870 was, on the whole, a well-conceived measure ; but the recommendations made by the Devon Commission, the iniquitous and destructive Encumbered Estates Act, the agrarian revolution wrought by Mr. Gladstone, and the 'Land Purchase' Acts, as they are falsely called, have been monuments of want of insight and knowledge. And, what is even worse, legislation on the Irish land has, over and over again, been too long delayed, and has been inconsistent, fitful, founded on no principle ; the results have been in a high degree disastrous. Reforms that would have been gladly welcomed if made years before, have been treated with contempt when made too late ; and reforms have more than once been hasty experiments, carried out under the stress of menacing troubles. The fable of the Sibylline books has been realised in this matter ; and not a few of the efforts to improve Irish land tenures have been little better than sudden leaps in the dark. As to recent legislation in this province, its consequences and tendencies have become manifest. That it has effected some good may be admitted ; it has removed grievances that no doubt existed ; it has made the government of Ireland more easy for the time ; it has allayed discontent for a moment ; but the good is

far outweighed by the evil. It is not only that the nostrum of the 'Three F's,' and the adjustment of rent by the intervention of the State, have cut down the rental of Ireland to an extent that cannot be justified, and have transferred to the occupier of the Irish soil a large part of what was the owner's property by a process of confiscation concealed, but certain. It is not only that the status of the Irish landlord has been iniquitously transformed to his extreme injury, and that the status of the Irish tenant has been changed to his extreme advantage, in both instances without a pretence to right. The Irish land system has been reduced to an almost hopeless state; it presents some of the worst features of the past; its conditions discourage the improvement of the land, promote its deterioration in many ways, and banish capital away from it; and its plain tendency has been to make agriculture decline. And the revolution, which has been thus accomplished, has aggravated the divisions of classes in Ireland, and has been attended with ruinous litigation on a huge scale; and it has produced demoralisation far-reaching and profound, a sense of insecurity in all landed relations, and a far too general disregard of the respect due to contract. The policy, too, of so-called 'Land Purchase' has been accompanied with a train of evils on the increase. It is not creating, as its authors fondly hoped, a class of loyal and thriving freeholders; it is not even creating a body of industrious and improving farmers. It is, on the contrary, developing, in some of its parts, the bad land system of the eighteenth century; it has proved injurious to agriculture in one important respect. Above all, from the very nature of the case, it has drawn harsh, nay, unjust, distinctions between the landed classes, which necessarily have been a cause of much discontent; and it has inevitably provoked a demand for a universal confiscation of the Irish land even worse than any of those which have been the curse of Ireland.

I pass from the material and general state of Ireland to that of the Irish community, in its different parts. That community is still divided, as it has been for ages, into three separate and distinct peoples, marked off from each other in race and faith ; whatever 'Nationalist,' leaders may assert, it is not, and has never been, in a real sense, a nation. The lines of demarcation between Catholic, Presbyterian, and Protestant Ireland are at least as clearly defined as they have always been ; they have probably been widened by the troubles of late years, and by the legislation which has been a consequence. Catholic Ireland has a population of some three millions and a half of souls ; it is in the main a Celtic race, but with a considerable admixture of other elements ; it has passed through a revolution remarkable and immense. Sixty years ago, the worst parts of the Penal Code had long been things of the past ; but the Irish Catholics had only recently thrown off the last remains of that thralldom, under O'Connell's guidance ; and their emancipation had only been effected by a great and very threatening movement. They were still comparatively an alien and a subject people ; they had not many owners of land ; they were not numerous in the upper trading and the professional classes ; education was greatly wanting among them ; they were for the most part a backward and poor peasantry, almost serfs of landlords distinct in creed and in blood ; and they formed the bulk of the teeming millions that vegetated on the soil in indigent misery. The Irish Catholics, too, had still many and real grievances ; the tithe of the Established Church had long been an unjust burden on the petty husbandman ; it had recently given rise to a frightful war of classes, and had only been commuted a short time ; the Established Church itself was a moral wrong, felt acutely by the Irish priesthood at least. Catholic Ireland, besides, was deeply sunk in ignorance ; the system of national education had only begun to flourish ; and the Irish Catholic

was still all but wholly excluded from county administration and municipal government. The worst of these grievances, however, was the state of the tenure of the land ; this was especially harsh on the Catholic peasant ; if oppression was not general or even common, he was too often subjected to excessive rent and unfair eviction. This order of things has all but completely passed away ; the position of Catholic Ireland in the State has almost wholly been changed. Catholic emancipation has long been an accomplished fact ; Irish Catholics and Protestants are equal before the law ; and have really equal chances in fighting the battle of life. Though still not numerous, the Catholic owners of land have multiplied ; the Irish Catholic middle classes have made a marked advance ; they have grown in knowledge and increased in wealth ; they have risen to a higher plane of existence. At the same time, the grievances of the past have nearly all been removed by law, often indeed very late, and by questionable means ; but the Established Church has fallen from its high estate ; education has been diffused through the Catholic masses ; the Irish Catholics have obtained more than a just share in local government and administration of all kinds ; their ascendancy in this province is well-nigh assured. The most important, however, of these changes is that which has taken place in the state of the Irish Catholic peasantry. The process which lifted up millions of these from the land and sent them into exile was, no doubt, terrible ; but it was the condition of the welfare and the progress of the population which remained. A great deal of the legislation, besides, which has revolutionised the tenure of land in Ireland, and has had a special effect on the Catholic occupiers of the soil, has been essentially ill designed and unjust ; above all, it has been much too long delayed. But the Irish Catholic peasantry have long ago ceased to be serfs ; they are more the owners of their own holdings than their former landlords ; their rights in

the land have been more than protected ; they have acquired the fee in their farms in thousands of instances ; the days of rack rents and harsh evictions have passed away for ever. If the lines of the old Irish land system may still be traced, they rather resemble, it has truly been said, the lineaments of a phantom than of a living being.

The attitude, however, of Catholic Ireland, and the sentiments of the immense majority of the Irish Catholics, must cause painful misgivings in reflecting minds. Their aristocracy, indeed, and their landed gentry have always been loyal and true subjects ; they can scarcely be distinguished from their Protestant fellows. The Irish Catholics, too, of the upper middle classes are generally attached to the institutions under which they live ; and Catholic Ireland has produced many eminent public servants, and has given splendid ornaments to the Bench and the Bar. But the spirit that prevails among the Irish Catholic lower middle classes, and notably among the masses of the peasantry, and the opinions and feelings they ostentatiously avow, are deeply to be regretted in many respects. Notwithstanding all that has been done for it, and the immense reforms made in its interest, this part of Catholic Ireland is, beyond question, more disaffected and disloyal to the State than it was when O'Connell was its master spirit ; it is more hostile to government, law, and the existing order of things. The teaching of the Land and the National Leagues, and of the successor which has taken their place, has penetrated into the Corporations and Local Boards, in which the Catholic Irish are supreme ; these assemblies echo with revolutionary and socialistic cries, and denounce the whole system of British rule in Ireland, aiming especially at the Sovereign and those in the highest places. The Irish Catholics, too, in the three provinces of the south, have gained a complete ascendancy in county and municipal affairs ; their first object has been to exclude the landed gentry from them, and to destroy the influence

which belongs to property ; and they have exhibited tendencies absolutely opposed to the Constitution to which they owe their authority. The worst symptoms, however, appear in the state of the peasantry ; they have obtained advantages of which their fathers never even dreamed ; the land system has been turned upside down for their behoof ; they have no grievance in landed relations ; and yet they remain unfriendly to the State, and show no sign of gratitude. This class contains the multitudes, who for more than twenty years, have allied themselves with a conspiracy against our power in Ireland, and who, at the bidding of designing men, shout treasonable utterances at mob gatherings, and denounce the 'Saxon' and 'landlordism' with one voice ; and though they are a timid and somewhat inert mass, and they would not rise like their fathers in 1798, they would not lift a hand to support our rule were foreign invaders to descend on our shores. This state of opinion, no doubt, is intelligible to the real student of Irish history ; the Irish Catholics are a people who have been cruelly wronged ; they have only slowly risen out of serf-like thralldom ; above all, they have only attained the position they hold in the State after long years of trials, and by giving trouble ; they treasure the Celtic traditions of the past ; we may regret that they are what they are, but can hardly feel surprise. In other respects, the Irish Catholic masses, especially in a democratic age, must arouse the solicitude of thinkers worthy of the name. Many thousands of them are still illiterate ; they are too generally the mere followers of priests and demagogues, tossed hither and thither as their masters direct ; they are animated by crude and wild ideas, like the peasantry of France before the Revolution ; they have scarcely anything in common with the corresponding class in England, trained for centuries in habits of well-ordered liberty. They form, in a word, a dangerous and easily led democracy ; and yet, owing to recent legislation, ever to be deplored, they possess



almost a monopoly of political power in Ireland, and have sent representatives to Parliament whose acts are a by-word.

Conciliation, therefore, as the phrase is, has failed in the case of the greatest part of Catholic Ireland ; this remains an alien, even a perilous, element in the State ; it is worse than useless to shut our eyes to the truth ; the time is still apparently distant when it will become contented and loyal. Presbyterian Ireland is a people of rather more than half a million of souls, almost concentrated within a nook of Ulster ; it was rebellious in sentiment a hundred years ago ; it is now devotedly attached to the British connection, and has firmly supported the Union during a period of trouble. This community, nevertheless, of artisans and farmers is rather widely separated from the aristocracy in their midst, for the most part English in blood, and of the Anglican faith ; and though the Presbyterian farmer has obtained the benefit of the late reforms of land tenure, and has received advantages far in excess of justice, he declares himself to be discontented with his lot, and is clamouring for a vast confiscation of the Irish land in his selfish interest. The Irish Protestants are a population rather larger than the Presbyterians ; but they are scattered over all parts of the country ; they do not possess the political influence of their distant kinsmen in Ulster. They comprise at least three-fourths of the leading landed gentry, and a considerable number of the better class of farmers ; they predominate in the learned professions, and in the higher walks of commerce. But their lower orders feel the loss of the ascendancy which was once their birthright ; they have been thrust out from corporate and local government ; they are isolated amidst a population not in sympathy with them ; as a people they can hardly be described as prosperous. As to the Protestant landed gentry, they have for centuries been the most loyal of subjects ; it is significant that they have been

called the British garrison by the conspirators who seek to overthrow our rule in Ireland; they have given many eminent worthies to the State, and proved their devotion to it at the gravest crises; what they are has been shown in the war in South Africa. At present, however, profound and just discontent has sunk deep into the hearts of this order of men. They are the heirs of conquest and confiscation, it is said; but they were placed in the position they hold by English kings and Parliaments; is that any reason that, within the last half-century, the Nemesis of conquest and confiscation should have been invoked against them, in the Encumbered Estates Act and predatory agrarian laws? They were too much of an exclusive caste, separated from their dependents, and possessing powers over the occupiers of the soil, which were sometimes abused; is that any reason that they should have been deprived of political influence, supplanted by the bureaucratic Castle, changed from owners of their estates into mere pensioners, shut out by the force of law from local and county government? What, however, the Irish landed gentry most deeply feel is that, in the course of the last sixty years, they have been deceived, nay, betrayed, by British statesmen, who, having repeatedly assured them that their position was secure, have sacrificed them when it seemed to suit their purpose.

The Imperial Parliament has, during the last century, had absolute control over the affairs of Ireland. No impartial student of history will deny that it has governed Ireland very much better than her old Parliament could possibly have done, after the dreadful rising of 1798 had literally torn the country to pieces. The large majority of thinking persons have long ago been convinced that the policy of Home Rule, that is, the substitution for the Houses at Westminster of a statutory legislature seated in Dublin, would be disastrous to the Empire and Ireland alike; and that the evils attendant on the present system

would be aggravated a hundred-fold by the revolution Mr. Gladstone tried to effect. Nor can it be questioned that the Imperial Parliament has, for a long period, sincerely desired to legislate and rule for the good of Ireland, and has accomplished important Irish reforms, whatever legitimate exceptions may be taken to them. Protestant ascendancy and the Established Church have fallen ; the law has long been indifferent to Irishmen of all classes ; education has been brought home to the mass of the people ; the tenure of land has been transformed, unwisely no doubt, but wholly in the interest of the occupiers of the soil. Nevertheless, much that the Imperial Parliament has done, and left undone, in the Victorian era, remains matter of censure and regret ; and its Irish administration has been in many respects unfortunate. The neglect to make a provision for the Irish Catholic priesthood, a main object of Pitt and of our best statesmen, when the Anglican Church was disestablished in 1869, was a grave and a calamitous mistake ; the attempts that have been made to reform the Irish land system have, with scarcely an exception, been sorry failures ; the results have been, in no doubtful sense, deplorable. Few, too, will justify such measures as the establishment in Ireland of household suffrage, that is, giving a monopoly of political power to an ignorant and priest-ridden democracy,\* and depriving property and intelligence of all influence, or as the handing over county and city government, in three-fourths of Ireland, to much the same classes. Nor are even positive errors such as these the worst, perhaps, that can be laid to the charge of the Imperial Parliament in the conduct of Irish affairs. With rare exceptions, the reforms it has made have been, unhappily, too late, and have been obtained only through menacing popular movements ; it has over and over again

\* See on this subject the true and indignant remarks of Mr. Lecky, 'Democracy and Liberty,' vol. i. pp. 27, 28.

made Irish questions the mere subjects of the selfish strife of party, with evil consequences for Irish interests; it has occasionally, and even for large spaces of time, shown a marked indifference to reasonable Irish demands; and its administration of Ireland has repeatedly been inconsistent, even contradictory, shortsighted, and feeble. It must be acknowledged, indeed, that the rule of the Imperial Parliament, in the circumstances in which Ireland has been placed, is, from the nature of the case, faulty in many respects; it is that of a dominant assembly practically controlling a subject dependency; and, as we see in the striking instances of Athens and Rome, this kind of government has never been free from great and real objections. This, no doubt, is no reason that we should fly from less to unbearable evils, and adopt the fatal scheme of Home Rule; and the causes that have made our Parliamentary *régime* in Ireland as defective as it is are evident, and, as I shall point out afterwards, may probably be removed, to some extent at least, without subverting the constitution of these realms. But the broad fact remains, and cannot be concealed; the Imperial Parliament, much as it has done, has not reached the hearts or gained, in any degree, the sympathy of an immense majority of the Irish people.

This conclusion, indeed, has been made only too manifest, if we look back at the history of Ireland within living memory. The Catholic Association defied the Imperial Parliament, and was supreme in four-fifths of Ireland, from 1824 to 1829; O'Connell, in 1843, rallied the Irish Catholic millions to the cause of the Repeal of the Union, that is, to the subversion of British rule from the Giant's Causeway to Cape Clear. Home Rule became a popular cry when proclaimed by Butt; Parnell soon rose to the head of an Irish faction, which deliberately tried to paralyse and cross Parliament, and to make its sway in Ireland of no avail and contemptible. The Land League and the

National League were essentially conspiracies of foreign origin, and they appealed to socialistic greed in a season of distress ; but their chief object was to annihilate British power in Ireland ; they had the support of huge Catholic masses ; they returned to Parliament a band of more than eighty men, one of whose purposes was to check-mate its authority. Too much is not to be made of these movements ; three-fourths at least of the Irish community have repeatedly been led away by able but unscrupulous leaders, and rush into courses to which they are not earnestly inclined ; but these unquestionable facts assuredly prove that the institutions under which they exist are not acceptable to the great body of the people of Ireland. This attitude has been displayed with marked and too plain significance, within a period, as it were, of yesterday. The United Irish League fills the place of the Land and the National Leagues ; it is a conspiracy against the State, like its forerunners ; it aims ultimately at the same objects ; its organisation and machinery are the same ; it seeks to establish its domination by similar methods. It is, no doubt, less formidable than the Land and the National Leagues ; it has received little support from America, and has no one to compare with Parnell at its head ; but it has sent more than three-fourths of the representatives of Ireland into the House of Commons ; and these have combined to put in force the arts of obstruction with an audacity, a perseverance, and a measure of success, perhaps never so conspicuous before. Its authority is less far-reaching than that of its predecessors ; but it has established a reign of tyranny in not a few counties ; it is largely backed by the Irish priesthood and by much the greatest part of Catholic Ireland ; and its leaders boast, not without truth, that, disloyal as many of their utterances are, they are completely in accord with popular sympathies. The acts and the speeches, indeed, of these men have never been more unequivocal than within the

last two or three years;\* yet almost everywhere they obtain the applause and the support of the multitude. An Irish contingent was sent to fight for the Boers; the war in South Africa was yelled at, at huge public meetings, as an odious instance of English tyranny and crime; every reverse that befell our arms was welcomed; the Irish masses, especially of late, have made a display of their antipathy to, and hatred of, the State. There was an outbreak of disloyal rioting in Dublin at the Diamond Jubilee; but for the accident of the Spanish

\* The tone of disaffected opinion in Ireland can only be thoroughly understood by a careful study of the conduct and the language of 'Nationalist' leaders. I select a few specimens out of hundreds of instances. Mr. William O'Brien, the Corypheus of the United Irish League, spake thus at Letterkenny in January, 1900: 'If ten thousand Frenchmen, or Russians, or Germans were to land in Bantry Bay, with a supply of arms for the people, they would walk over the country and drive the English garrison into the sea.' The same worthy exclaimed at a monster meeting in Dublin in September, 'English rule in Ireland was so bad that they would be justified in chasing the English out of Ireland bag and baggage. What was wanting to them, unfortunately, were the guns and artillery to do it.' Mr. Michael Davitt, of Land League renown, speaking in the Queen's County about the same time, said, 'England is unquestionably the greatest empire of liars (loud cheers and laughter), of hypocrites, and of poltroons, judged by its achievements in South Africa, that has ever postured before mankind with a civilising mission.' Because the Corporation of Dublin voted, by a small majority, an address to Queen Victoria when she paid her last visit to Ireland, Mr. John Redmond, the chairman of the 'Irish Parliamentary Party,' said, in January, 1901, 'It rests with the people themselves to say whether they will redeem the reputation of Dublin from the stain that has been cast on it.' So Mr. John Dillon, M.P., spoke in the same sense, a few months ago, 'The voice of the capital will be the voice of the rest of Ireland (applause), that we will not tolerate in this old city that new type of politics which thinks it consistent with Irish nationality to cringe and crouch before a foreign queen.' At least two County Councils in Ireland, and more than one Local Board, refused to vote an expression of condolence when the Queen died. It is painful to contrast these sentiments with the loyalty of O'Connell when the Queen ascended the throne.

War there would have been a great commemoration of the rebellion of 1798; even the visit of the late Queen to Ireland was made an occasion for seditious speeches; if her death was very generally mourned, public bodies were found to refuse an expression of regret.

Irish administration, I have remarked, is in many respects faulty; this is mainly because it is dependent on British parties; it fluctuates as one or the other prevails in Parliament. It sometimes represents completely opposite principles; besides, as Lord-Lieutenants and Chief Secretaries usually hold office for a short time only, they are tempted to adopt a hand-to-mouth policy, and to govern with little thought of the morrow. A marked change, however, has, in the course of time, passed over the ordinary system of administration carried on at the Castle. The aristocracy and the leading Irish gentry had still, even at the beginning of the Victorian age, much influence in directing local affairs; their authority was not nearly as great as it had been; but they were still looked up to and consulted by the central government. This state of things has long ago ceased to exist; this order of men has long ago lost all political, and nearly all social, power; it has been superseded by a bureaucratic *régime*, depending mainly on paid officials and police, which rules Ireland from the Castle, with little external support. This mode of government is imposing and apparently strong; but it is essentially weak, and has little real hold on the country; the information, with which it is amply supplied, is often false, and occasionally causes grave mistakes; it forms an administrative system resembling that of the old centralised monarchy of France, of which Tocqueville has exposed the defects and the vices. Under this *régime*, however, the law of the land has certainly been vindicated more successfully than had been the case before; the Government has acquired decidedly increased power in dealing with disorders dangerous to the State, and perhaps

in holding the scales of justice even between divided classes ; it has not diminished the strife of hostile Irish factions, but it has maintained order more completely than of old ; and this unquestionably is a great advantage, and a real set-off against some mischiefs and failures. It would be untrue to assert that this system of rule has been the paramount and even a main cause of the great decline in agrarian crime and trouble which Ireland has happily witnessed of late years ; other and far more potent causes have concurred ; but it may fairly be said that it has contributed to it. It would, however, be a complete mistake to suppose that agrarian disorder, even in its worst aspects, has become permanently a thing of the past in Ireland, or that this destructive curse of Irish social life has not immense influence even at this moment, though its outward manifestations have been greatly changed. It was, so to speak, only yesterday that, under the auspices of the Land and the National Leagues, there was the most frightful outbreak of agrarian crime that had been seen since the great tithe conflict ; it assumed the proportions, in fact, of a horrible servile war ; and shallow, indeed, the understanding must be which imagines that this state of things can never recur. If open agrarian disorder, too, has been largely diminished, the spirit of agrarian disorder is still strong ; and it is doing infinite mischief in many parts of Ireland. Steadily adhering to the precepts laid down by Parnell, the United Irish League has brought the detestable system of 'boycotting' to a hideous perfection in several counties ; whole districts are subject to this secret but villainous tyranny ; the results are seen in numbers of derelict farms, in hundreds of victims writhing under ever-present terror, in an infamous interference with trade and industry. This malignant influence is more or less felt through nearly the whole of the southern provinces, and even to a considerable extent in Ulster ; it should be added that the United Irish League, for the



present, discourages active agrarian crime, though its agents hold this force in reserve ; it believes it can compass its ends without making use of this weapon.\*

A few words must be said, in this short survey, on the organisations that uphold the Christian faith in Ireland. The disestablished Anglican Church has certainly made progress in spiritual life ; it has more moral and even, perhaps, social influence than when it was an appurtenance of the Erastian Castle. It has been admirably administered and ruled ; the uses of adversity have been sweet to it, and it has been successfully launched on its new career ; this is a strong proof of the inherent energy and capacity of the Anglo-Protestant Irish people. Very different, too, from what had been expected, moderation and wisdom prevail in its councils ; its clergy are sincerely pious, but not given to extreme doctrines ; its members are for the most part free from the narrow sectarian views which had formerly, not without reason, been laid to their charge. Its funds, amassed by good management, are, for the present, ample ; but the rapid impoverishment of the landed gentry, the class from which it chiefly obtains support, and the confiscation with which they are threatened, no doubt expose it to future dangers ; and it must always be the Church of a small minority, surrounded by influences hostile to it, but a Church which the State is bound to protect. The Presbyterian Church of Ireland has but little changed ; it has felt the effect of the great religious movement, which has stirred the Three Kingdoms in the last half-century, and it is less rationalistic than it once was ; but it is still what it always was, a powerful centre of the faith of John Knox, with a communion of strong democratic sympathies. The Catholic Church of Ireland still rests on the old

\* Since the above lines were written, there has been a serious outbreak of agrarian crime in Ireland in the form of incendiary fires, which may be distinctly traced to the operations of the United Irish League.

foundations ; but it is hardly the unshaken structure it was in the last generation. Its material resources have enormously increased ; its fine edifices spread over the land ; it still exercises immense influence over probably nine-tenths of Catholic Ireland. But a party has been growing up within it which resents, and has even defied, its pretensions ; and though the power it possesses is, in the main, beneficent in the extreme, this has too often been abused in the domain of politics, and especially of late in Irish landed relations. The priesthood still largely direct their flocks, but they are more dependent on them than they once were ; had it been otherwise, they would have hardly conformed to the bidding of the Land and the National Leagues, as unhappily they did in too many instances. Their leading men perceived from the first that these conspiracies were destructive of their moral influence ; and had the whole body of the clergy received a just provision from the State, it would all but certainly have condemned the methods of the Leagues as these were decisively condemned by Rome. For the rest, the Catholic Church of Ireland is no friend of Protestant England, and of many of the institutions that exist in Ireland ; but this has been inevitable from the events of Irish history ; and whatever may be said, it has been essentially an ally of the State, by reason of its great religious authority. And if properly understood, it is a mighty conservative power, which ought if possible to be won over to the side of order and law ; this is an ample, if there were no other, reason that statesmen should comply with its most reasonable demand, and remove the grievance, in high Catholic education, that only blind bigotry can deny.

The administration of justice in Ireland is better, on the whole, than it was in the early Victorian era. It is not only that the law's delay has been to a considerable extent, remedied, as it has been, in England, by an improved procedure. Traces of Protestant ascendancy

were to be seen on the Irish Bench sixty years ago, though these were evanescent and few ; such a trial as that of O'Connell in 1844, marked by partiality and even by wrong, would be simply impossible at the present time. Trial by jury, however, in Ireland too often reflects the animosities and prejudices of class, and is liable to grave perversion and errors ; it is sometimes necessary, in causes where religious or political feeling is engaged, to make a careful selection in forming juries, in order that common right should be done ; this inevitable, but invidious, process, held up to execration by the name of 'packing,' is certainly a matter that causes regret. The fairness seen in the administration of the law in Ireland has been strikingly illustrated of late years ; leaders and agents of the Land and the National Leagues have had to answer for their offences in the inferior courts ; but despite rabid clamour against what is called 'coercion,' the conduct of these inquiries has not been really impugned. A laudable attempt, however, to make the magisterial bench more popular, has lately placed on it an order of men, of whom some have abused their power ; these instances, nevertheless, have not been frequent ; the experiment cannot be pronounced a failure. The intellect of Ireland is not so fruitful as it was in the generation before the union ; she has no political thinkers to be named with Burke, no writer of fiction equal to Maria Edgeworth, no dramatist to be compared to Sheridan, no orators who have reached the heights of eloquence reached by Grattan, Curran, Plunket, and other glories of her defunct Parliament. But there has been progress in this respect within the last sixty years ; Ireland cannot boast of such public men as O'Connell, Sheil, and even Spring Rice ; but she possesses Dufferin in the diplomatic sphere, and Lecky, and one or two others of repute in that of letters ; she has only recently lost Lord Cairns and Lord Russell. The improvement of primary education in Ireland

has been immense ; the land is full of elementary schools, which, in the last generation, were, comparatively, very few, and though a considerable part of the population is still illiterate, the greater part, whose fathers were sunk in ignorance, has felt the good influence of the light of knowledge. High education, too, has advanced in Ireland ; Trinity College is greater than before as a place of learning ; if two of the Queen's Colleges have certainly failed, the Royal University has been, in a sense, successful. But, as I shall point out, in subsequent pages, University education in Ireland remains defective ; a University for the Irish Catholic upper middle class is a requirement rightly demanded from Parliament. As for Irish secondary education, it is still backward, but there is hope of improvement in this respect ; the general standard of Irish education, it should be added, is, except at Trinity College, low, though this has been inevitable if we look back at the events of history. Irish opinion generally still embodies the deep-seated animosities and strife of race and faith, at least as fully as it ever did ; with few exceptions this appears in the tone of the newspaper press. The utterances of many of the self-styled 'Nationalist' journals have been far more hostile to the State, and are conceived in a much worse spirit, than those of the same class of journals in O'Connell's day.

If we examine the condition of Ireland, as a whole, we see that there has been some material progress, but with retrogression in important respects ; and if a certain measure of good has been done, great wrong and evil have been accomplished, in the principal and the most far-reaching of her social relations. Her moral and political progress has been at least doubtful ; notwithstanding immense and searching reforms, the mass of the population is more disaffected than of old ; discontent largely pervades the classes most loyal to the State ; if the mere power of government has increased, its beneficent influence is but little

recognised ; the great body of the community maintains a hostile attitude. The crooked has not been made straight in Ireland, nor the rough places plain ; a state of society exists, in which, as the Greek poet said, 'the fountains flow backwards, and things are out of joint.' An old order has nearly passed away ; but the new order that is replacing it is but of little promise ; a type of society has been well-nigh broken up, but a strong and solid type is not being formed in its stead ; at all events, in the phrase of Bacon, the time is still distant 'when the strings of the Irish harp will all be in tune ;' many respond to the player's hand in discord. 'The Constitution in Ireland,' Peel once exclaimed, 'is not the British Constitution, but its ghastly image ;' let us see what it is in Ireland at the present time. The Sovereign is, in England, a main pillar of the State ; he is a great political and social force ; the Monarchy is enthroned in the heart of the nation. In Ireland he is almost an unknown name, associated with not a few evil memories ; his influence, which ought to be immense over a Celtic race, has never made itself sensibly felt. In England Parliament responds to the national will, and has gathered the reverence of ages around it ; in Ireland it is a foreign and alien assembly, with which the mass of the people has no sympathy. In England the aristocracy is at the head of public affairs, leads society, commands universal respect ; in Ireland it has lost all authority ; has no weight in the National Councils ; has no popular support, is even disliked at the Castle. In England the middle class is enormously strong, and is the best bulwark of order and law ; in England the democracy is almost wholly free from revolutionary ideas, as regards property, and seeks reforms by constitutional methods. In Ireland, it is unhappily quite otherwise ; the middle class is comparatively weak, and, in its lower strata, is opposed to the existing order of things ; the democracy is an easily led multitude, ready at its leaders' bidding to rush into socialistic courses. In England, too, the

Commonwealth is completely secure ; in Ireland there is literally no Commonwealth ; and such organisations as the Land, the National, and the United Irish Leagues, are dangerous symptoms of a kind of Jacobin antipathy to the State. The words of Peel are still unhappily true ; but painful as the contrast he pointed out is, even this is not the worst circumstance in the present condition of Irish affairs. What, I think, most alarms a reflecting mind, is the restlessness that pervades the mass of the people, an eagerness for some undefined change, a demand for the universal spoliation of a class, a sense of insecurity spreading far and wide, a neglect of the pursuits of calm industry in the hope of what a revolution may effect, an instability in the social fabric from top to bottom. The agitation, the disorder, and, I will add, the vicious legislation of late years, will, however, largely explain these phenomena.

Lord Salisbury's Ministry came into office, six years ago, at the head of the most powerful majority that had been returned to the House of Commons since the great Reform era. The time was singularly opportune to consider the state of Ireland, and to deal with the Irish questions that required sound and wise treatment. The Opposition was paralysed by a rout at the polls ; the National League conspiracy showed few signs of life ; the 'Nationalist' party was rent asunder ; the community was more quiescent than it had been for years. It would be unfair to deny that, since it acquired power, the Government has been beset by many and grave obstacles in legislating on domestic subjects ; it has been encompassed by a sea of foreign troubles ; it has had to conduct the protracted war in South Africa. It would be absurd, too, to expect that it could, once for all, have placed Irish affairs permanently on a secure basis ; this can only be the result of the wisdom of years aided by the healing influence of time. But it has disappointed enlightened Irish opinion ; it has not done, or even tried to do, what it might have accomplished.

Undoubtedly parts of its policy have been good ; it has effected something, if not much, in developing the material resources of the west of Ireland, and in mitigating the danger and the stress of Irish poverty ; it has carried on the excellent work of Mr. Arthur Balfour in this respect ; the Department of Agriculture it has lately formed will, not improbably, be of real use in promoting industry and self-reliance among the peasantry, on the principles advocated, a century and a half ago, by Berkeley. But commendation, I think, must here end ; the Government, I believe, has made grave mistakes ; it has assuredly not successfully dealt with the great 'Case of Ireland,' greater now than in the days of Molyneux and Swift. It has not reduced the excessive representation of Ireland in the House of Commons ; until this is done the Union will not be secure. It has disregarded the verdict of the important Commission which has declared that Ireland has been immensely overtaxed for years ; here it defies universal Irish opinion ; and having pledged itself to make a further inquiry, it has not hitherto taken a step to redeem its pledge. It is divided on the question of high education in Ireland, and professes that this must be an 'open question,' as if this was not unwise and perilous ; and though it has appointed a Commission to report on the subject, Catholic Ireland very possibly may not obtain the place of learning which it is entitled to demand. Above all, on the capital question of the Irish land, the Government has certainly all but ignored the recommendations of a Commission chosen by itself, and has refused to lessen the injustice proved to have been done wholesale ; like its predecessors, in the case of the Encumbered Estates Act, it is still bent on agrarian legislation that has done infinite mischief. Its administration, too, up to this has not been successful ; it has allowed the United Irish League to grow up and to gain strength, with far-spreading evil results ; its conduct of Irish affairs has been weak and empirical, and notably

marked by false optimistic fancies. Of late there has been improvement in this respect ; we can only hope it will not be abortive.

‘In this gigantic body,’ Macaulay exclaimed fifty-seven years ago, ‘there is one vulnerable part near the heart.’\* The Empire has expanded into ampler proportions than those described by the orator ; its subject kings, dominations, princedoms, powers, above all, its myriads of many races and tongues, are united by far more durable ties than those which held it together in a generation that has passed away. Four years ago, Canada sent messengers from her great lakes, Hindustan representatives of her ancient dynasties, the great island continent envoys from her free nations, to do homage to Queen Victoria ; the pageant, gathered ‘within London’s streaming roar,’ was a magnificent spectacle of world-wide loyalty. England has seen another and a still more wonderful sight ; the martial sons of our great self-governing colonies have flocked in thousands to do battle in her cause, in the distant and ill-known wastes of South Africa ; in a long, bloody, and sometimes disastrous conflict, they have proved themselves to be worthy companions in arms of the offspring of the soldiery of Blenheim and Waterloo ; they have fought and bled for England as if she was their common country. But Ireland, as regards the mass of the people, has, on both occasions, stood sullenly aloof ; her heart has gone out in sympathy with the Boers ; she remains, for the most part, hostile to our rule and disloyal. It is mere foolishness to shut our eyes to plain facts ; still more so to join in the false pæans of interested partisans, and ignorant scribblers, who announce that because Ireland is, on the surface, comparatively at peace, she is in every sense a contented or a happy land, free from grave elements of political and social danger. She is still the ‘vulnerable part at the heart of the Empire ;’ the spectre at the great

\* Speech in the House of Commons, February 19, 1844.



national festival ; the warning token, as in the case of the Oriental despot, that human grandeur and power are, in the nature of things, mortal. She is still, as she was in the day of Spenser, a malign influence across the path of our greatness, a riddle difficult to understand and interpret ; the many problems she still presents to the statesman are perplexing in the extreme, and await solution. That any policy will suddenly remove the many evils apparent in her organic structure is a delusion a rational mind rejects ; the deep-seated ills in that distempered frame may never be completely and finally cured. Something effectual, nevertheless, may, I think, be done ; I proceed to examine, in the following chapters, the 'Present Irish Questions' that confront our rulers ; and to consider what the amending hand may accomplish.

## CHAPTER II

### THE QUESTION OF HOME RULE

The question of Home Rule not extinct—The reasons—Butt's scheme of Home Rule—It is denounced and ridiculed by Mr. Gladstone, and defeated in the House of Commons—Death of Butt—The Home Rule movement becomes allied with a foreign conspiracy—Davitt and Parnell—The Land League—Mr. Gladstone's surrender to it—The movement makes no progress in the Parliament of 1880-85—The General Election of 1885—Mr. Gladstone suddenly adopts the policy of Home Rule—The probable reasons—The Home Rule Bill of 1886—Its nature and tendencies—Decisive objections to the measure—It is rejected at the General Election of 1886, having been previously rejected in the House of Commons—Policy and conduct of Mr. Gladstone—The Home Rule movement makes some progress in England, and why—The Home Rule Bill of 1893—It is much worse than that of 1886—The reasons—It is rejected by the House of Lords—Home Rule under different forms—The Union must be maintained—Proposal that Parliament should occasionally sit in Dublin—The over-representation of Ireland should be redressed.

HOME RULE, it is very generally assumed, has vanished into the domain of extinct politics. Unlike what had been the case from 1886 to 1895, when this was the main of our domestic questions, Home Rule was scarcely referred to at the late election; it will receive little countenance at the hands of the present House of Commons, however Irish Nationalists may persist in urging their demand. It would, nevertheless, be imprudent to believe that this policy, as has been said, 'is as dead as Queen Anne,' as impossible as a return to Protection or to an unreformed

Parliament. Isaac Butt's scheme of Home Rule was treated with scorn and ridicule by Mr. Gladstone during many years; Mr. Gladstone was the author of the Bills of 1886 and 1893, embodying Home Rule in forms few will now approve of; and he left nothing undone to convert them into law. At the General Election of 1880, Home Rule was regarded as a mere Irish craze, and hardly a candidate could be found, in England and Scotland, to consent to an inquiry upon the subject; within six years Home Rule was a Ministerial measure; and though the House of Commons pronounced against it, and its decision was emphatically ratified at the General Election of 1886, still, on this occasion, the votes in favour of Home Rule were not much less numerous than those cast against it.\* In 1892 England condemned Home Rule, if not as decisively as six years before; but Ireland, Scotland, and Wales declared for it; and a Home Rule Bill received the sanction of the House of Commons, which, but for the resistance made by the House of Lords, would now be a fundamental law of these realms. It deserves notice, too, that not one of the Liberal leaders, although, as a rule, they avoided the subject, repudiated this policy at the late election; two or three, indeed, gave it a qualified support; and it is evident that they keep the question in reserve, in the hope of turning it to account at a more convenient season. Nor can it be denied, as long as Ireland can send more than eighty Nationalists into the House of Commons, pledged to insist on Home Rule as their country's right, that the subject must command more or less attention; for many reasons it is impossible to ignore the claims of a representation so large in numbers. It must be added that, under our system of party government, especially as this has existed of late years, a considerable group of politicians, with a fixed purpose, can effect much by

\* The figures were 1,238,342 against 1,316,327: Dicey, 'England's Case against Home Rule,' p. 35.

throwing its weight indifferently into the Ministerial or the Opposition scale, and giving its support to either side, in order to compass its own ends; it has, sometimes with successful results, swayed majorities by these means, and not in vain. This is the hope of the Irish Nationalist leaders; 'let parties in the House of Commons,' they cynically argue, 'be equally divided, as must at some time happen,' and 'we shall gain Home Rule from either Tories or Whigs, if we assist either by our votes to keep them in office.' It cannot be said, if we look back at some political events within the last twenty years, that this expectation is wholly groundless; and though I am convinced it will not be realised, its existence alone suffices to prove that Home Rule cannot yet be dismissed as outside the sphere of practical politics.

Home Rule, therefore, is a 'Present Irish Question,' and if not at this moment urgent, it remains the most important of Irish questions, for it directly affects the fortunes of the Three Kingdoms. It is necessary, accordingly, to examine it, in its principles at least; and an inquiry is opportune, at this juncture, for the subject can be fairly discussed in its different bearings, apart from the obscuring influences of national and party prejudice, and especially of political passion. Isaac Butt was the true author of the conception of Home Rule; for though a movement in favour of a Repeal of the Union had become dangerously active in 1843-44, and had been feebly intermittent since that period, this peculiar modification of the arrangements made at the Union, in fixing the relations between Great Britain and Ireland, was wholly an idea of that distinguished lawyer. The occasion, on which this scheme was put forward, was not a little remarkable for various reasons. Mr. Gladstone had just disestablished the Anglican Church in Ireland, and had disendowed it, to a considerable extent; this policy was angrily resented by a party of Irish Protestants; for the maintenance of the

Established Irish Church had been made an essential condition of the Treaty of Union. These men, who were not without energy and parts, declared that a great international compact had been broken; and they gradually obtained the support of leaders of the 'Young Ireland' following, of survivors of the 'Tail' of O'Connell, and even of adherents of the Fenian cause, all, in different degrees, opposed to the Union. Butt became the head and spokesman of this curiously assorted band, composed of essentially discordant elements; but he endeavoured to combine it into a strong Parliamentary force, by propounding a plan of Home Rule for Ireland, which he had thought out with patience and care, his hope being that this would unite his followers, and that his project would at least be entertained in Parliament, and would not be as hopeless as an attempt to repeal the Union. His views are set forth in his 'Irish Federalism,' a long-forgotten work, but which, even now, may be read with profit. Butt professed, and I have no doubt sincerely, that he did not seek to disturb the Union, and that the Imperial Parliament was to remain as it was; but he proposed to give Ireland a Parliament of her own, with full powers of legislation on Irish affairs, and an Executive practically appointed by this, which would have the government of Ireland in its hands. Having thus called into existence an Irish State, possessing State rights of supreme importance, he sought to connect Ireland with Great Britain by a Federal tie; representatives from Ireland were to repair to the Imperial Parliament, and to vote in that assembly on Imperial questions, but not, as I believe Butt meant, on those which belonged to England and Scotland.\*

The cry of Home Rule was welcomed in Ireland by her Catholic masses; at the General Election of 1874, sixty men were returned to the House of Commons to support

\* Butt maintained, in his place in Parliament (Hansard, March 20 1874), that this was the true import of his project.

this policy, a party formidable in numbers, if not in essential strength. Butt brought forward his plan, in outline, on three or four occasions ; but the question was not discussed with the fulness of knowledge and the breadth of view it certainly required ; on the whole, it was superficially treated. Neither Butt nor his opponents thoroughly perceived that his proposals virtually repealed the Union, for if the Imperial Parliament was, nominally, to be left intact, a real Parliament was to be placed in its stead, in Ireland, which would practically annul its effective authority, from the Giant's Causeway to Cape Clear ; and they seem not to have understood that 'Irish Federalism' implied Federalism for Great Britain to a great extent, and introduced into the Constitution the Federal principle with its far-reaching and dangerous effects. Butt's scheme, however, was powerfully attacked in its details ; by no one so powerfully as by Mr. Gladstone, who had lately announced, to an approving multitude, that Home Rule was sheer folly or worse, and had exultingly asked, 'Can any sensible man, can any rational man, suppose that, at this time of day, in this condition of the world, we are going to disintegrate the great capital institutions of the country for the purpose of making ourselves ridiculous in the sight of all mankind, and crippling any power we possess for bestowing benefits, through legislation, on the country to which we belong ?' \* Little knowing what the future was to bring forth, Mr. Gladstone declared that Home Rule was not to be even thought of, until it could be proved that the Irish affairs, to which the Irish Parliament was to be confined, could be separated from Imperial and British affairs, a partition he evidently deemed impossible ; and he insisted that the introduction of Irish members into the Imperial Parliament, which, according to this plan, was to have nothing to do with Ireland, was

\* Speech on receiving the freedom of Aberdeen, September 26, 1871.

not only essentially unjust, but involved the absurdity that these men 'were to judge as they might think fit of the general affairs of the Empire, and also of exclusively English and Scotch questions,' an interpretation not, I believe, correct. Home Rule was rejected by overwhelming majorities in the Parliament of 1874-80; and at the General Election of the last-named year, it found no countenance, I have said, in England or Scotland. The subject was scarcely referred to by Mr. Gladstone, wholly preoccupied by his Midlothian campaign, and by his persistent efforts to deprive Lord Beaconsfield of power.

Butt had sincere reverence for the Constitution and the Law; the Home Rule movement, as long as he was at its head, was a constitutional and a lawful movement. But this eminent man had been supplanted, by degrees, by a politician of a very different nature; and when he had passed away in the spring of 1879, Parnell, and what was called the 'active Irish party,' which had baffled and incensed the House of Commons, became the directors of the Home Rule policy. The character of the movement was almost wholly changed; it became associated with a conspiracy hatched in the Far West, which aimed at the separation of Ireland from Great Britain; Butt's moderate followers fell away from it, especially the band of Protestants who had first set it on foot. Meanwhile, American Fenianism, which had in vain attempted open rebellion in Ireland in 1865-67, had, at the instigation perhaps of Michael Davitt, made another effort to compass its ends; the 'New Departure' in treason was made; the Land League was formed with the avowed purpose of overthrowing 'Irish Landlordism,' as it was called, as being the mainstay of British power in Ireland, and then of wresting Ireland by force from her British rulers. But Davitt was not well fitted for his work; Parnell became the leader of the Home Rule and the Land League movements; and

during a short visit to the United States, he openly professed that his ultimate aim was 'to break the last link between Great Britain and Ireland,' though he was still the chief of an apparently constitutional cause. Ere long the Land League, availing itself of a season of distress, and subsidised by Fenians across the Atlantic, had taken root in different parts of Ireland; and gradually a reign of terror, marked by detestable crime, and essentially of the Jacobin type, had acquired a frightful ascendancy in ten or eleven counties. By this time, Mr. Gladstone had become Minister: how he denounced the League in passionate language; endeavoured, for a few months, to hold it in check; succumbed to it, when he made the 'Kilmainham Treaty;' and, finally, how, after declaring that Parnell and his adherents were 'aiming at dismemberment through rapine,' he became the author of the Land Act of 1881, and threw the Irish landed gentry as a sop to Cerberus,—is sufficiently known, but I shall recur to the subject. During these years, Parnell, artfully playing the double game, which this born conspirator especially made his boast, and linking what he called 'a constitutional with an illegal movement,' had more than once spoken on behalf of Home Rule in the House of Commons, his moderate and even statesmanlike language being in marked contrast with his treasonable harangues in Ireland. But Parliament had been otherwise engaged with Irish affairs; it had become more averse to Home Rule than ever; it had learned what the movement had begun to involve, veiled, if not open, rebellion against the State, and it voted down the question by immense majorities. Statesmen of all parties, Tory, Whig, and Radical, without exception, concurred in this view; Lord Salisbury, Lord Spencer, and John Bright alike condemned the very idea of Home Rule. Mr. Gladstone indeed asserted afterwards that he had a policy of this kind in his thoughts; but if he had, he kept it to himself; it cannot be gathered from his speeches of the time;



he never breathed to his colleagues a word about it ; he allowed them to pronounce against Home Rule with his full apparent sanction.\*

Mr. Gladstone's Ministry fell in 1885 ; Majuba, Gordon, and his Irish policy had set the best sense of the country against him. Lord Salisbury's Government came in his place ; for a short time the tendency, too often seen in British parties, to temporise with sedition and even crime in Ireland was exhibited with untoward results ; the negotiations between Parnell and Lord Carnarvon have not yet been explained. At the General Election of 1885, Parnell openly took the Conservative side, denounced the Liberals in the bitterest language, and perhaps, through the influence of the Irish vote, deprived them of a few seats in England. His principal object certainly was to increase his own power and that of his band by weakening the strongest of British parties ; but this association with the Conservatives probably lessened the antipathy of their opponents to Home Rule, and was not without effect on the events that followed. Ireland, however, was by no means a prominent question in this electoral contest ; the Tory, Whig, and Radical leaders dealt, for the most part, with different topics ; and though Mr. Gladstone dropped ambiguous phrases, which, he ere long contended, indicated his conversion to Home Rule, his lieutenants continued to declare against this policy, their chief remaining openly in accord with them ; indeed, all that could be collected, from what he wrote and said, was that he called upon the country to give him such decisive support as would make him independent of all Irish factions. The result of this General Election, taken as a whole, was to gain for the Liberals a majority of some eighty seats in Great Britain ; but in Ireland it effected a notable change in politics. By a recent,

\* See Mr. Gladstone's 'History of an Idea,' an apology for his attitude towards Home Rule at this time, which seems to me to be his condemnation.

and, for Ireland, a most unwise statute, the electoral franchise had been assimilated in the Three Kingdoms ; political ascendancy had, for the first time, been secured for the masses of Catholic Ireland, largely an ignorant and superstitious multitude ; property and intelligence were overwhelmed at the polls ; and Parnell and his satellites, now called Nationalists, won more than eighty seats out of a total of one hundred and three. The Liberal majority, therefore, would be effaced should the Irish leader and his men give the Conservatives their votes ; a weak Government would be the inevitable result ; Mr. Gladstone, now in his seventy-sixth year, could hardly expect to return to office. In these circumstances, it became gradually known that Mr. Gladstone had accepted Home Rule in principle, and was even prepared to legislate upon the subject. It would be unfair to assert that personal motives alone determined this sudden resolve ; though obviously should the Liberal chief retain the allegiance of his party, and draw Parnell and the Nationalists to his side, by inaugurating Home Rule as a practical measure, he would inevitably be restored to power with a great majority. Mr. Gladstone, ever ready to yield to a popular cry, may have believed that five-sixths of Ireland were passionately eager for Home Rule ; he may have been convinced himself that, as affairs now stood, Parliament would well-nigh be reduced to a deadlock should nothing be done to redress the balanced state of parties, and that Home Rule was the condition of a stable Government ; he may have thought that since the Conservative dalliance with Parnell, it had become impossible permanently to resist this policy ; yet these considerations form no apology for the conduct of the aged, but most impulsive, statesman. Only a few years before large parts of Ireland had been in a state of frightful anarchy ; a rebellious and socialistic movement against British rule and Irish landed property had acquired great force ; even at the present time, the National League,

replacing the Land League, kept disorder prevalent in many counties. Was this the moment to effect a revolution in Ireland, to tamper with, and to impair, the Union, to hand over the loyalty, the property, and the worth of the island to the classes and the men against whom but, as yesterday, it had been necessary to put the severest coercion in force?

Lord Salisbury resigned office in the first months of 1886; Mr. Gladstone became Prime Minister in his stead. Had parties in the House of Commons remained unchanged, the prospect for the old statesman would have been auspicious; the Liberals and Nationalists combined would have been supreme; Home Rule would have been the fruit of the new alliance. But the most distinguished men of the Liberal party, resenting a coalition far worse than that of Fox and North, and convinced that Home Rule would be ruinous to the State, fell off from their leader in large numbers; the powerful Press of Great Britain, with few exceptions, emphatically condemned the Minister's conduct. Mr. Gladstone, however, did not pause in his violent course; he introduced his first Home Rule Bill in April, 1886. I can only glance at the main features of this famous measure, and devote to it a passing comment.\* A Parliament was to be established in the Irish capital; this, subject to the limitations set forth in the Bill, was practically to exercise supreme power in Ireland. This Parliament was to be composed of two Orders, the first containing one hundred and three members, and formed of a few Irish peers and of men of some substance; the second comprising two hundred and four or two hundred and six members elected on the existing democratic franchise. The two Orders were ordinarily to sit together; but should differences in legislative measures

\* For an admirable analysis of the Bill, see Dicey's 'England's Case against Home Rule,' pp. 223-273. The text of the Bill will be found in the Appendix to this volume.

arise, the first Order was, for a short time, to have a suspensive veto on the decisions of the second Order, which, however, possessing an immense majority, would almost necessarily in the long run completely prevail. The Irish Parliament was precluded from legislating on many subjects, for the most part Imperial, but partly domestic ; it was notably to have no control over the Customs and Excise of Ireland, which were to be kept in the hands of the Imperial Parliament ; and though it was permitted to impose any other taxes, the whole revenue of Ireland was to pass through the hands of a British official, who was to pay into the Imperial Treasury a sum of about four millions sterling, as a contribution from Ireland, for Imperial purposes, before the Irish Treasury could receive a farthing. Bills voted by the Irish Parliament might be annulled by the veto of the Lord-Lieutenant and perhaps of the British Ministry ; and the Judicial Committee of the English Privy Council, reinforced by a small body of Irish judges, was to have the power to pronounce Acts of the Irish Parliament void, if inconsistent with its constitutional rights. Subject, however, to these restrictions and checks, the Irish Parliament was to be a sovereign power in Ireland ; it could practically appoint or displace the Irish Executive Government ; it could enact, change, or repeal any laws it should think fit ; it could pass any resolutions it pleased ; if an assembly partly subordinate, it would be largely supreme. Ireland was to have no representatives in the Imperial Parliament, though this could dispose of the Irish Customs and Excise ; no Irish protest could be made at Westminster against unjust fiscal exaction, by no means impossible. For the rest, the Union was nominally not disturbed, and the Imperial Parliament was nominally left intact ; but it was declared that the Irish Parliament was to possess the rights secured to it, unless these were annulled by an Act of the Imperial Parliament, to which the Irish had given its consent, or by an Act of the Imperial

Parliament, in which representatives from Ireland should have a voice.

The Bill was debated with great force of argument, but hardly in its high constitutional aspects. Like the plan of Butt, and every plan of the kind, it impliedly, if not expressly, repealed the Union, for the very creation of an Irish Parliament destroyed the real authority of the Imperial Parliament, the symbol and guarantee of the Union, in one of the main parts of the Three Kingdoms. It effected a radical change in our polity as a whole, for practically it gave birth to three Parliaments, the Irish sitting in College Green in Dublin, the British at Westminster without Irish members, and the Imperial, properly to be only so-called, when assembled upon one great occasion; and, even more distinctly than the scheme of Butt, it let the principle of Federation into the constitution of the State. And it did all this obscurely, indirectly, and, so to speak, with reserve; the hand of a veiled prophet appeared in his work; this must have led to endless controversies dangerous in the extreme. Nor did the Bill even attempt to mark out the distinction between Irish, British, and Imperial affairs, which its author had declared was a *sine quâ non*; this distinction, in fact, cannot be drawn, as Mr. Gladstone acknowledged afterwards; Irish, British, and Imperial affairs so run into each other, that they cannot be divided into separate heads, to be under the jurisdiction of different Parliaments. The conditions, too, which Mr. Gladstone described, as essential to a measure of Home Rule, were, in no sense, fulfilled. 'The Unity of the Empire,' that is, of Great Britain and Ireland, as Mr. Gladstone no doubt had in his mind, was not secured, or, even in name, preserved; the subordinate Irish Parliament and its superior might, and probably would, come in serious conflict; this was absolutely inconsistent with the unity to be maintained. The 'political equality of England, Scotland, and Ireland' was not

assured ; the Bill placed Ireland in a degraded position, especially in all that dealt with taxation, and through the exclusion of Irish members from the British House of Commons. It did not 'produce an equitable distribution of Imperial burdens,' for the financial arrangements were thoroughly unjust, and subjected Ireland arbitrarily to a most galling tribute, without giving her the means of making a complaint. It did not 'provide safeguards for the minority,' that is, for the loyal classes of Protestant and Catholic Ireland ; it handed them over to an Irish Parliament, certain to be for years an instrument of their avowed enemies ; and its supplement, a Land Purchase Bill, did not furnish a third part of the funds required to buy out the Irish landlords, a class which, Mr. Gladstone declared, it was 'an obligation of duty and honour' to save harmless, and which he admitted an Irish Parliament would, probably, plunder and destroy. Lastly, the Bill did not secure 'finality ;' it was in no sense in the nature of a 'permanent settlement,' as subsequent events have conclusively proved.\*

It may be urged, however, that even if this measure made a fundamental change in the constitution of these realms, and did not satisfy the conditions its author laid down, still the real question was, would it bring peace to Ireland, and improve the relations in which she stood towards Great Britain ? Mr. Gladstone and his followers assumed that this would be the case ; the 'Union of Hearts' was to accomplish marvels ; but this assumption was without the slightest warrant. The most favourable way to consider the subject, from the point of view of the Home Rule party, is to suppose that Great Britain and Ireland were two communities, in no sense estranged from each other, and that Ireland was not a widely divided people ; and that both were not unwilling to accept the

\* For a full statement of Mr. Gladstone's 'conditions,' see his speech in the House of Commons, April 8, 1886.

Bill, as a kind of modification of the partnership made by the Treaty of Union. This supposition would be obviously contrary to the facts ; but, even on this supposition, the proposed measure would have completely failed to attain its objects, and, on any ordinary view of human nature, would have exasperated Great Britain and Ireland alike, and could not have been a 'message of peace' to Ireland. The Parliament at Westminster would soon have found out that its real sovereignty in Ireland had been practically destroyed ; that the Irish Parliament could, in many ways, interfere with British and Imperial affairs ; that most of the checks on its powers were of little avail ; this would certainly deeply offend the deceived British nation. The Irish Parliament, on the other hand, would necessarily resent the harsh limitations by which it had been bound ; yet as it had most of the powers of a real Parliament, it could very effectually evade or impair these ; could, through its Executive, largely annul them ; could, at least, make continual and powerful protests. Discord, and perhaps conflict, between Great Britain and Ireland, from the nature of the case, would be the result ; and, besides, there were special provisions in the Bill which would be deemed intolerable by five-sixths of Irishmen. Even loyal Ireland would not endure the banishment of Irish representatives from the British House of Commons, which would have power to impose the Irish Customs and Excise ; this would be taxation without representation, in the very worst sense. It was monstrous that Ireland was to contribute a large sum for the charge of the Empire and yet was to have no voice in the Empire's affairs ; it was humiliating that a British official was to have absolute control over the whole Irish revenue. All this was subjecting Ireland to a degrading tribute ; it should be added that the prerogative of the English Privy Council, to set aside practically Acts of the Irish Parliament, would have provoked the deepest and most widespread discontent.

The Bill, in a word, revealed strange ignorance of the feelings of mankind ; it would have worked on the assumption only that human beings in Great Britain and Ireland were without passions and wills of their own ; it would have been blown to the winds, when put to the test.

But 'the circumstances,' to adopt the words of Burke, 'are what render every civil and political scheme beneficial or noxious to mankind ;' \* what were the circumstances in the present instance ? England and Catholic Ireland had been long opposed ; the Land and the National Leagues formed a conspiracy against our rule in Ireland ; England had interests in Ireland of the first importance ; she had a large community of her own blood and faith in Ireland, attached to the Union and the old mother country. Ireland had been distracted for ages by feuds of race and religion ; Protestant and Catholic Ireland stood apart from each other ; the Irish Parliament, created by the Bill, would certainly be an instrument of the heads of the Catholic masses, supported by Parnell and his band, and by Fenians across the Atlantic. Under these conditions, Home Rule would have been a fatal gift, ruinous to Great Britain and Ireland alike. Suppose, for example, that an Irish Parliament, established in College Green, since 1886, had ruled Ireland during the war in South Africa. It would unquestionably have taken the side of the Boers, as the Nationalist leaders have openly done ; and it would have possessed the means of doing infinite mischief. It could have passed resolutions condemning the war ; have called on Irishmen to keep aloof from the British army ; have discouraged recruiting throughout Ireland ; have sent messages of good will to the Boer Government. But probably it would have gone far beyond these, its constitutional, rights ; it could have winked at the preparation of an armed force in Ireland to be despatched to the aid of

\* 'Reflections on the Revolution in France,' vol. i. p. 384, ed. 1834.



the Boers ; it could have invited Foreign Powers to put a stop to the conflict ; nay, it could have laid hands on the Irish taxes, and refused to 'pay tribute to an alien Government ;' and what, in these cases, would have been England's means of obtaining redress, save by the power of the sword ? In the instance of other wars, the same course would be followed ; we cannot forget that at Nationalist meetings, the Mahdi, the Dervishes, nay, all our enemies, were the objects of the applause of shouting Irish multitudes. And as the Irish Parliament could injure England in war, so it could embarrass and annoy her, in a hundred ways, in peace. There was nothing in the Bill to prevent Protection in Ireland, for the Irish Parliament could vote bounties on Irish exports ; there was nothing to prevent the issue of Irish assignats, to mask confiscation of different kinds ; and recourse would not improbably be had to these very expedients. It is unnecessary to dwell on what would be the legislation of the Irish Parliament at home, and the administration of the Executive it would have a right to set up. Composed as it would be, it would abolish 'landlordism' by a stroke of the pen, or by merely preventing the recovery of rent ; it would simply turn society upside down, and establish a Catholic ascendancy by many degrees worse than Protestant ascendancy ever was ; it would, in a word, let revolution loose in the island. Protestant Ireland would, as a matter of course, resist ; a savage war of race and creed would certainly follow ; the scenes of 1690 and 1798 might well be repeated ; and the struggle would end in general bankruptcy. England, in her own interest, and in that of her friends in Ireland, would assuredly intervene, under conditions like these ; and the concession of Home Rule would probably lead to reconquest.

The Home Rule Bill of 1886—apart from the fatal evils it must have caused—placed Ireland in such an inferior position, that every Irishman of spirit ought to have

treated it with contempt ; it was so dangerous to Great Britain, and, indeed, to the Empire, that John Bright declared that not twenty English members approved of it at heart. Mr. Gladstone himself, it should be remarked, regarded it with no doubtful misgivings ; he presented it to the House of Commons as 'but a choice of evils ;' his measure itself, in many passages, revealed the profoundest distrust of the Parliament he proposed to create. Parnell, imposing his imperious will on his followers, accepted the Bill with professions of delight ; this was effusively welcomed by the emotional statesman, deceived by an unscrupulous plotter, over and over again ; it is now known this was a mere pretence ; Home Rule, under the conditions of the scheme, would have been made a stepping-stone only for larger demands ; and this, indeed, might have been easily foreseen. The Bill was rejected by a majority which did not express the true sense of the House of Commons, and showed how strong may be the ties of party ; the great body of the Liberals, as, doubtless, they now bitterly regret, threw in their lot with Mr. Gladstone in his most reckless venture. It is of more importance to observe what the views on the subject were of the conspirators in America, who had set the Land and National Leagues on foot, and had supplied almost the whole of their funds ; without their assistance the movement led by Parnell would probably have never struggled into life. The prospect opened by the Home Rule Bill was thus welcomed by the Clan na Gael, the most energetic and daring of the Fenian parties ; it will be noted that it was to be a means only to a very decisive end. 'The achievement of a National Parliament gives us a footing on Irish soil ; it gives us the agencies and instrumentalities of a government *de facto*, at the very commencement of the Irish struggle. It places the government of the land in the hands of our friends and brothers. It removes the Castle's rings, and gives us what we may well express as the plant

of an armed revolution.'\* And at a great Fenian meeting held after the rejection of the Bill, one of the leading speakers dropped these significant words: 'We have no desire to force the hand of Parnell, or to drive the Irish people into war unprepared. All that we demand is this, and we will be satisfied with nothing less—that no leader of the Irish people, who is supposed to speak for them, shall commit himself, or them, to accepting as a final settlement, bills of relief unworthy of the dignity of Ireland's national demand. We are perfectly willing to see them accept such bills as that of Gladstone, as a settlement on account, but that must not be accepted as closing the transaction. We see no wisdom in it. It lowers the tone of the national cause. It lowers the spirit of the true people. To ask them to subside to a species of mere provincialism is an outrage on their struggle of seven hundred years for liberty. We admit that it may be good policy on the part of Mr. Parnell and Mr. Davitt to be what is called moderate in tone; but for us, who represent the national idea of the Irish people, it would be worse than folly to conceal our sentiments. We recognise that Ireland is incapable of fighting at present.'†

Mr. Gladstone dissolved Parliament when it had thrown the Bill out; he appears really to have believed that the nation would give its sanction to Home Rule. At the General Election of 1886, he exerted himself 'in the sacred cause of Ireland,' with the energy he had shown in his Midlothian Campaign; he associated his new Irish policy with appeals to the multitude; the opposition to him was that 'of the classes against the masses;' in a word, the enthusiastic, and perhaps sincere, convert played, with little scruple, the part of a mere demagogue. But England pronounced against him, with no uncertain voice; 'men of education and property,' as he sadly acknowledged,

\* Report of the Special Commission, vol. iv. p. 542.

† 'The Queen's Enemies in America,' p. 24.

resisted him with the steadfastness of the English nature ; a great majority was sent into the House of Commons pledged against Home Rule ; Lord Salisbury's Government came again into office. It deserves special notice that the rejection of the Bill did not, as was predicted would be the case, arouse anything like real discontent in Ireland, or cause her Catholic community to stir ; this spectacle, which has been seen over and over again, proves how little the main body of the Irish people care for a political revolution of the kind ; and how Home Rule, as Parnell and his band conceived it, was the work of a conspiracy of foreign origin, seeking, through it, to subvert British rule in Ireland. The real purpose of these men was very clearly shown at a Convention assembled at Chicago, in the summer of 1886 ; speeches of the most incendiary nature were made ; and two of Parnell's envoys, despatched to collect funds 'for the cause,' announced that, after the failure of Mr. Gladstone's measure, their 'duty was to make the government of Ireland by England impossible.' Two or three years of trouble in Ireland followed ; it is unnecessary to refer to these at any length. A season of agricultural distress and of a fall in prices made the payment of Irish rents difficult ; the occasion was seized by the heads of the National League, which had gradually been acquiring formidable strength ; the 'Plan of Campaign' was set afoot ; and another attack was made on the Irish landed gentry, with the ultimate object of paralysing the Irish Government, as had been solemnly proclaimed at Chicago. The social disorder of this period was not so deeply marked with horrible deeds of blood, as the Saturnalia of the Land League were ; but the movement was, perhaps, not less dangerous ; the cruel practice of 'boycotting' was reduced to a system, and caused widespread misery and distress ; an agrarian war was carried on in a few counties ; judges, magistrates, and juries were terrorised in the administration of the law ; and there were too

numerous instances of atrocious crimes. But a firm hand was at the helm of the Irish Government ; Mr. Balfour did not palter with sedition and treason ; the conspiracy was before long put down ; and it should be added that 'boycotting' and 'the Plan of Campaign' were unequivocally condemned at Rome.

In this struggle between the forces of disorder and law, the Rump of the Liberal party, which had accepted Home Rule, freely declared itself on the side of the National League and of anarchy. Mr. Gladstone, however, towered over his fellows ; his vehement and, when aroused, unscrupulous nature, has never been more unfortunately displayed. He had been three times at the head of the State, charged with the administration of Irish affairs ; the Government in office was engaged in a conflict with a conspiracy of no contemptible strength ; yet Mr. Gladstone did not shrink from throwing his full weight into the scale against it, and giving his sanction to the movement led by Parnell and his creatures. His conduct was so flagrantly at odds with his former self, that, but for the gravity of the situation, it would have been ludicrous ; it consisted in adoring what he had burned, and burning what he had adored ; nothing like it had been seen since Fox, breaking away from the traditions of British statesmen, flung himself into the arms of Jacobin France, and rejoiced at every reverse that befell England.\* A remarkable episode in the politics of the day was not without real effect on events that followed. The acts of the Land and, in part, of the

\* For a scathing condemnation of Mr. Gladstone's public conduct in these years, see several great speeches of Lord Hartington and Mr. Goschen. See also 'The Memoirs of Lord Selborne,' Part II. vol. ii. pp. 261, *et seq.*, and note in Appendix to this volume. See, too, Dicey's 'Leap in the Dark,' p. 190. Lord Selborne's sketch of Mr. Gladstone's character as a statesman, 'Memoirs,' Part II. vol. ii. pp. 339-359, deserves careful study. Mr. Lecky's admirable account, 'Democracy and Liberty,' introduction to vol. i., second edition, is well known.

National Leagues, and of the leaders of the revolutionary movements which had convulsed Ireland, were investigated by the judges of the Special Commission appointed by Parliament for the purpose ; the inquiry, which lasted many months, was of supreme importance ; such a damning sentence was never pronounced on a body of public men, as that pronounced on Parnell and his followers, though the accusation of treason was not brought into question.\* This decision was sufficient for well-informed and sensible men ; but Parnell was acquitted on a personal, but minor, charge, that of having been the author of the well-known forged letters all but approving of the assassinations in the Phoenix Park ; Mr. Gladstone and his adherents welcomed him as an injured martyr ; the House of Commons rang with their plaudits when he re-entered its walls. For a few months Parnell became a popular personage in democratic England ; he had negotiations with Mr. Gladstone with respect to Home Rule, the tenor of which has not transpired ; his satellites appeared at many public meetings, and split the ears of the groundlings with plausible talk about 'self-government' for Ireland and the 'Union of Hearts.' This mystification and falsehood were not without effect ; the cause of Home Rule made a kind of progress in England ; and, strange to say, the fall of Parnell which ere long followed—I shall not dwell on its squalid and grotesque incidents—had an influence in the same direction. Ireland had been brought into a state of comparative repose ; the power of the National League appeared broken ; the formidable leader of the conspiracy had left the stage ; his adherents were scattered sheep, which had not a shepherd. With the ignorance of Irish affairs so common to Englishmen, and the desire, partly selfish, but partly generous, to 'get rid of the Irish difficulty,' by any tolerable means, thousands in the constituencies, even in England,

\* Report of the Judges, vol. iv. pp. 544, 545. See the note at the end of this volume in the Appendix.

lately bitterly hostile to it, were gradually won over to the idea of Home Rule.

The General Election of 1892 followed; a number of causes, in addition to that I have set forth, contributed to favour the Home Rule movement. The 'swing of the pendulum,' seen in British politics, since Democracy has gained the ascendant, very distinctly appeared; the 'idea that each side ought to have its innings' was widely spread; many Unionist seats were lost by these means. The extraordinary energy shown by Mr. Gladstone, at an age far beyond the ordinary span, had considerable influence on the masses; and though his real authority had been long on the wane, he was still the popular figure in England and, above all, in Scotland. He had, also, carefully kept his Home Rule scheme to himself; it was announced by his followers that his next measure for securing 'self-government,' as it was called, for Ireland, would be free from the manifest faults of that of 1886, and would finally, and happily, settle the question. A large part of the electorate was gained in this way; but the influence that most effectually assisted Mr. Gladstone was, essentially, of a very different kind. The Anti-Unionist Liberals had been out of power for many years; though they had long been split into separate groups, they resolved to combine against the common enemy, and to drive the Unionist Government from its seat, by appeals to the ideas they assumed were dominant in democratic England and Scotland. The Newcastle programme was ostentatiously published; the question of Home Rule was mixed up with projects for disestablishing the Church in England and Wales, for the destruction or the emasculation of the House of Lords, for enforcing temperance by the tyranny of the Local Veto, for extending the suffrage and raising the labourer's status; in this way they satisfied themselves they 'would sweep the country.' They knew, indeed, that Mr. Gladstone had no heart for much of their policy; but

his passionate eagerness to accomplish Home Rule was notorious; they believed that by giving him a cordial support on this question, they would secure his powerful aid for the others, and that by the process known as 'log-rolling,' they would attain their objects. The Unionist party was weakened at the election; but the sanguine hopes of its opponents were not fulfilled. Many of the Radical cries were far from popular; they nearly all combined large classes against them; England returned a large majority to the House of Commons pledged against Home Rule, if not so considerable as six years before; and though Scotland and Wales were, in the main, favourable to Mr. Gladstone's policy, still the electorate of Great Britain, as a whole, pronounced against it. The election in Ireland presented features which, with respect to Home Rule, were of marked significance. In 1886, as in 1885, the educated and upper classes were swamped at the polls, by the flood of illiterate and indigent multitudes; the Irish Catholic Church used, nay, abused, its immense authority, to secure votes for Mr. Gladstone's coming measure. The same spectacle was beheld in 1892; but an element of confusion and disorder came in; the leaders of the factions, divided by the fall of Parnell, though Nationalists, ferociously flew at each other's throats; the election was marked by disgraceful scenes of lawlessness. These certainly prefigured what would be the character of a future Irish Parliament sitting in College Green.

This election gave Mr. Gladstone a majority of some forty seats in the House of Commons, but a majority composed of not well-united elements; and the best opinion of England was strongly averse to his policy. But the veteran statesman—he was in his eighty-third year—did not pause for a moment in his headlong venture, though ominous sounds were being already heard; after the resignation of Lord Salisbury, through a weak adverse vote, his rival became Prime Minister for the fourth time.



He had staked everything to obtain the success of the cause to which he had passionately devoted his declining years; he brought in his second Home Rule Bill in the first months of 1893. The measure had much in common with that of 1886; but in some respects it was very different, especially in one feature of supreme importance. An Irish Parliament was again to be set up in Dublin; but it was to be a much smaller body than that proposed by the previous Bill; it was to be composed of a Legislative Council of forty-eight members only, and of a Legislative Assembly of only a hundred and three; these were analogous to the First and Second Orders of 1886, but were not to be even half in numbers; and no Irish peers were to have a place in the new Parliament. The Legislative Council and Assembly, differing here from the original scheme, were to sit, not together, but apart; but the Legislative Council, like the First Order, was to have a temporary suspensive veto on the Assembly's acts; the Assembly, too, like the Second Order, possessing a majority which would place real power in its hands; and both bodies, it should be added, being more democratic than the two which were to have been created in 1886. The new Irish Parliament, like that to be formed seven years before, was restricted by limitations—these much the same as those contained in the former Bill—in a number of Imperial and domestic matters; it was, like its predecessor, to be subjected to the same kind of veto, and to nearly the same authority of the English Privy Council. In finance, the 'tribute,' which had been loudly condemned by all parties in Ireland, was given up; there was to be no British official to lay his hands on Irish revenue, and to divert it from its legitimate uses; but the Irish Customs were to be appropriated to the Imperial charge, which Ireland was declared to be justly liable to pay; and this was a sum of about two millions and a half, with an addition for a time of one million, a sum less than the

estimate made in 1886. The Irish Parliament, however, if thus made largely subordinate, was like the Parliament of the preceding Bill, to be in many, and most important, respects supreme. It was to rule Ireland as a sovereign power, subject to the limitations by which it was to be bound ; it could make, change, and repeal laws, as regards the Irish community, almost as it pleased ; it could, in a word, do nearly everything within the province of a real Parliament. Above all, it could appoint and control the Irish Executive Government, to which the administration of Irish affairs would belong ; and it would thus have complete power over the most important machinery of the State.

The Bills of 1886 and of 1893 so far resembled each other, with some distinctions ; but, in other respects, they markedly differed. The supremacy of the Imperial Parliament, implied but not expressed in the first scheme, was unequivocally asserted in the second, though this supremacy could not be effective, as respects Ireland. The Imperial Parliament was nominally left untouched by both Bills, though this was a play on words only ; but it was to hold a position in the second it was not to hold in the first ; the Union was not in terms repealed by either measure, though virtually it was repealed by both, through the mere creation of an Irish Parliament. The Bill of 1886 had, as its complement, a Land Purchase Bill ; in fact, both were made parts of the same policy ; a sum of £50,000,000 was to be an indemnity for Irish landlords who should think fit to part with their estates ; for Mr. Gladstone, we have seen, had declared that it was 'an obligation of duty and honour' to protect this order of men ; and he asserted that Parliament would, doubtless, vote any further sums required, a singular exhibition of credulous hope, for these would have amounted to £150,000,000 at least ; and he had himself, in a speech addressed to Lord George Hamilton, valued the lands of

Ireland at £300,000,000. But what was to be deemed sacred, in 1886, had a very different aspect in 1893; the settlement of the Irish land was, indeed, withheld for three years from the Irish Parliament, but, after this brief space of time, this was to be certainly left to a body, which Mr. Gladstone had evidently thought would make short work of the Irish landed gentry, and would drive them, in beggary, out of their own country. These differences, however, between the two Bills, sank into insignificance compared to a vital distinction which made them essentially unlike each other, and made their projects of Home Rule completely dissimilar. The exclusion of Irish representatives from the House of Commons at Westminster, under the measure of 1886, was palpably unjust, and had been condemned with much force of argument. Mr. Gladstone proposed to redress this wrong by summoning eighty Irish members into the Imperial House of Commons; these were to have no cognisance of British questions, but were to have a right to vote on Imperial and even Irish questions, though the Imperial Parliament was to have little or no power in Ireland, and an Irish Parliament was practically to fill its place, and to have all but supreme authority over Irish affairs. This strange expedient obviously made the Home Rule schemes of 1886 and 1893 altogether different; but Mr. Gladstone never saw the essential distinction; he maintained that the inclusion of the Irish members was little more than a detail of the measure. It would be perhaps unfair to insist that he introduced this immense change in order only to strengthen his already enfeebled party, which would be greatly in want of Irish votes at Westminster; more probably his intellect, yielding to old age, did not thoroughly grasp all that was involved in his project.\*

\* For a very able analysis of and commentary on the Bill of 1893, see Professor Dicey's 'Leap in the Dark.' For the text of the Bill, see the Appendix to this volume.

The Bill of 1893, from a purely constitutional point of view, was infinitely more objectionable than that of 1886. It not only, I have said, virtually repealed the Union; it created a kind of Federalism in these realms to which there has never been a parallel. The Irish Parliament was practically to rule Ireland; no British members were to show their faces in it; it was to be all but the sovereign of the Irish State. The British Parliament was nominally to be sovereign of the British State; representatives from Ireland were not to appear in it, and, in theory, they were not to deal with British questions. The Imperial Parliament was to be analogous to a supreme Federal Council; this ought to have jurisdiction over Imperial affairs alone; but eighty Irish members were to have seats in it, and they were to have a right to vote on Imperial and Irish questions, though Ireland was to have a separate Parliament of her own. This arrangement, in conception, was simply monstrous; it gave Ireland powers to which she had no pretence to a claim; it really subjected Great Britain to her; it formed a Federation in which a weak and small State was to have immense authority over another tenfold as strong; it might be described as one-sided Federalism run mad. Passing from the main principles to the details of the Bill, this, like its predecessor, did not satisfy the conditions Mr. Gladstone had deemed to be essential. It did not separate British, Irish, and Imperial affairs; its author admitted at last that this was not possible. It asserted the supremacy of the Imperial Parliament, and gave it a more imposing position than it had under the Bill of 1886; but it did not maintain the Unity of the Three Kingdoms; the mere creation of an Irish Parliament placed this in jeopardy. It did not provide for the 'political equality' of Great Britain and Ireland, for, in contradiction to the measure of seven years before, it practically gave Ireland a kind of ascendancy; her representatives were to possess rights in

no sense to be justified. It did not provide an 'equitable distribution of Imperial burdens;' in this province it would have done wrong to Great Britain; for, while it abandoned the odious Irish tribute of 1886, and an effective control over Irish revenue, its expedient of allocating the Irish Customs, and nothing else, as the only source for the payment of Imperial charges, would, in all probability, have caused the Imperial Treasury a great loss; the Customs would have been enormously reduced by smuggling, to which Irishmen have always been much addicted, which the Irish Parliament would have no interest to prevent, and which, very likely, it would directly encourage. Again, it did not create 'safeguards for the minority;' as we have seen, it threw the Irish landed gentry, after a brief respite, to the wolves, that is, to the tender mercies of the Irish Parliament; and, like the measure of 1886, it took no heed of Protestant and loyal Catholic Ireland, as a whole, though this assuredly was 'a minority' that required protection. Finally, it could not have effected a 'permanent settlement' of the affairs of Ireland; a 'lopsided' and iniquitous arrangement like this would certainly have had a very short existence.

The measure of 1893, in short, would have effected a complete revolution in the polity of these realms; it would have given the least important of the Three Kingdoms an iniquitous authority over the most important; it would unnaturally have placed weakness in superiority to power; it would have subjected the dominant to the lesser partner; all this, it will be observed, followed from the inclusion of Irish representatives in the Imperial Parliament, who, though a Parliament in Dublin, was to rule Ireland, were to have a right to deal with Imperial and Irish questions. Mr. Gladstone, I repeat, seems never to have understood the strange and ruinous consequences this would involve; but this can be made manifest by one or two examples. The Irish members

would be excluded from the British Parliament, and would have no right to vote on purely British questions, say upon the extension of the British railway system, or the disfranchisement of an English or Scottish borough. But they would have eighty seats in the Imperial Parliament; and as it was impossible to separate a number of British questions from those of an Imperial or Irish character, they would have a most potent influence over British affairs; for example, they could legitimately vote upon such subjects as the confidence to be placed in a British Ministry, the financial relations between Great Britain and Ireland, or the validity of British incumbrances affecting Irish estates. The exclusion, however, of Irish members from the British Parliament, and their introduction into the Imperial Parliament, would have led to even more disastrous results; it must, in many instances, have caused a complete paralysis of the State. This in-and-out plan, as it was derisively called, must have made Parliamentary government well-nigh impossible; if Irish members were to have a right to vote in the same House of Commons on Imperial and Irish questions, but were not to have a right to vote on British questions, to vote, say, upon a war with a Foreign Power, and upon the domicile and status of Irish subjects, but not to vote on matters of purely British commerce, there might, and very often would be, two conflicting majorities in the leading House of Parliament; Parliamentary affairs would be brought to a stand; the tenure of even the strongest Ministry would be utterly insecure. It is needless to point out that the relations between Great Britain and Ireland would almost certainly have been more strained, under the Bill of 1893, than they would have been under that of 1886; and that the government of Ireland by the Irish Parliament, would, under both, have been much of the same character. The British nation would have been indignant at the humiliation of their ancient Parliament, which would be sometimes placed

at the mercy of Irish members ; it would have condemned the weakening in Ireland of its authority, through the mere establishment of an Irish Parliament ; it would have been sorely vexed that Irish smuggling would filch away a large part of British revenue. It should be borne in mind, too, that the Irish members, who would have been let into the Imperial Parliament, would have been more difficult to deal with, by many degrees, more openly disloyal, more obstructive, than Irish Nationalists could be, as affairs stand at present ; they would have the support of the Irish Parliament ; the Imperial Parliament could hardly impose a check on them. As for the rule of the Irish Parliament, within its proper domain, it would have been the same, or much the same, under either measure ; that is, it would have been a succession of angry wranglings with England and oppression in Ireland, leading to anarchy and general ruin.

The Home Rule Bill of 1886, in a word, bad measure as it was, was innoxious compared to the Home Rule Bill of 1893. The fatal tendency of the scheme was quickly perceived ; the sound mind of England was profoundly stirred ; the Bill was publicly burned in the City of London ; innumerable petitions against it flowed in ; an immense assembly, representing loyal Catholic and Protestant Ireland, met in the capital, and denounced this whole policy in most determined language. As had happened, too, seven years before, the Press of Great Britain, all but universally, condemned the new measure as hopelessly bad ; it was significant that the Liberal Press was well-nigh silent, and that Mr. Gladstone was supported by very few petitions. The Opposition simply tore the Bill to shreds in the House of Commons ; but the self-deluded Minister desperately held his course ; the Radical groups servilely gave him their votes ; the process of 'log-rolling,' never before so recklessly displayed, kept his petty majority almost intact, a crying disgrace to any party in the State. At last, whether afraid of the country rising against him.

or yielding to the instigation of his Irish allies—his subserviency to their truculence had been most painful—Mr. Gladstone forced the measure through the House of Commons by a method never employed before; ‘closure by compartments,’ rightly compared to the ‘guillotine,’ put an end to resistance by iniquitous means. The Bill passed the Lower House by thirty-four votes only; not half of it had been examined or discussed; the part that had, had been so completely transformed, that its parent could hardly have known his own offspring. The most notable of these changes was that the in-and-out plan was given up; its ruinous effects had been fully dragged into the light, but an arrangement, perhaps even worse, had been placed in its stead. Ireland was to retain her Parliament in College Green; but the eighty Irish members were to have a right to sit in the Imperial Parliament, and to vote on all questions, not only Imperial and Irish, but strictly British alike. A philosophic and calm-minded writer has indicated what this would involve: ‘Irish members may disestablish the Church of England, though England is to have no voice in the pettiest of Irish affairs. Irish members are to be allowed to impose taxes on England, say, to double the income tax, though of these taxes no inhabitant of Ireland will pay a penny; the Irish delegation, and this is the worst grievance of all, is to be enabled, in combination with a British minority, to detach Wales from England, or to vote Home Rule for Scotland, or to federalise still further the United Kingdom by voting that Man, Jersey, and Guernsey shall send members to the Imperial Parliament.’\* To say that this proposal would be unconstitutional would be to do it too much honour; it was scandalous in the existing situation of affairs; it implied that heads of the National League, leaders of a rebellious and socialistic movement, would have the power, without restriction or check, to rule the Imperial

\* Dicey’s ‘Leap in the Dark,’ p. 57.



Parliament, in many instances, with reference to exclusively English and Scottish questions ; it practically bound Great Britain hand and foot in fetters to Ireland ; it was rightly called 'an absurd piece of infamy.' It is unnecessary to say that the system it would have established could not have stood a trial of even three months ; England, whenever crossed, would have indignantly swept it away. But Nemesis had commended the poisoned chalice to Mr. Gladstone's lips ; the project, on which he had staked his fortunes, was that which he had incorrectly ascribed to Butt, and had declared to be impossible and worse.

The Bill, it was notorious, could not have passed the House of Commons had not its rejection by the House of Lords been assured beforehand. It received its quietus, in that assembly, by a majority of about ten to one ; the mind of England felt unquestionable relief ; a great national peril had been averted. Exactly as had happened in 1886, scarcely a sound of discontent was heard in Ireland ; the demand for Home Rule, in fact, is largely a fictitious cry, with which the great body of Irishmen has little or no sympathy ; the evidence of this can be no longer doubtful. Mr. Gladstone retired, within a few months, from public life ; one of his last acts was to shoot a Parthian arrow at the House of Lords, which, happily for these realms, had wrecked his policy ; since that time he has disappeared from the scene ; few eminent statesmen have been so soon forgotten. Home Rule was scattered to the winds at the General Election of 1895 ; it has not been a prominent question at that of 1900 ; but if Ireland has sent more than eighty of its supporters into the House of Commons, the best elements in her community remain angrily hostile ; and the opinion of Great Britain is distinctly adverse. For many reasons, however, as I have remarked, it is impossible to ignore the subject ; in the strange chances and changes of British politics, and under our system of party government, a minister may again

become an advocate of Home Rule, though certainly not in the present Parliament. Mr. Gladstone's Bills, it is likely, will not be heard of again; but Home Rule may be embodied in other forms; I may briefly refer to, and comment, on these. The project of restoring the Parliament of 1782-1800, an ideal of O'Connell during many years of his life, will hardly be revived in these times; the conditions in Great Britain and Ireland have so completely changed. The centripetal forces which, a hundred years ago, held the British and Irish Parliaments, in the main, together—they differed, however, on important questions—have long ago been all but completely destroyed; the present Irish Parliament could not be an assembly identified in race and faith with England; its House of Commons could not be elected by a small body of Protestants, and latterly by masses of Catholic peasants, the serfs of their landlords. The centrifugal forces, on the other hand, those which would keep the two Parliaments utterly apart, would probably be overwhelmingly strong; the Irish House of Commons would practically, at least for years, be ruled by the nominees of the National League and of the Irish Catholic priesthood; its electorate would, for the most part, be subject to these dominant powers; and<sup>a</sup> Protestant Ireland would alike be swamped and incensed. Nevertheless, the restoration of what has been called Grattan's Parliament, would, in my judgment, be a much better project than either of Mr. Gladstone's schemes of Home Rule. The Irish Parliament would be bound by known and fixed precedents, which it would be difficult wholly to disregard; an Irish House of Lords would exist as a check on the House of Commons; above all—and this is of the very first importance—the Irish Executive would not be subject to the Irish Parliament; it would be appointed from Westminster by British statesmen. A Parliament of this type could hardly effect the ruinous mischiefs which Mr. Gladstone's Irish Parliaments could certainly effect.

Ireland, it has been urged, would obtain Home Rule, if she were assimilated to one of our self-governing colonies. These nations, as they may fitly be called, are by no means, as is commonly supposed, wholly independent of the Crown and the Imperial Parliament; they have Parliaments and Executives of their own; but these in theory, and partly in fact, are subordinate. No Act passed by the Parliament of a self-governing colony can in any way contravene an Imperial statute; the governor of a self-governing colony is a real governor; appeals run to the English Privy Council from colonial Courts of Justice. Nevertheless, self-governing colonies are practically all but independent; they pay no contribution to Imperial charges; they maintain their own garrisons, without a British army in their midst—at least, in a great many cases; they are hardly ever interfered with by the Imperial Parliament, or by the men in power at Westminster. Why, it may be argued, should not the same liberties belong to Ireland, for centuries the peccant part of these kingdoms; would not the concession make her as loyal as most of our self-governing colonies? The answer is short, but amply sufficient; the circumstances of our self-governing colonies and of Ireland are altogether different. In none of these settlements is there the profound estrangement which has long divided Great Britain from Ireland; in none is there a community in which a loyal minority is separated from a disaffected majority by long-standing discords of race and faith; Ireland is at our doors, our self-governing colonies distant. Give Ireland a Parliament like that of Victoria, and Ireland would break off from the British connection; the Irish Parliament would possess ample power to trample on and oppress hundreds of thousands of law-abiding men, of whom the protection was England's duty; the Irish Parliament and Executive, within a few leagues of our coasts, could, in innumerable ways, do infinite mischief. The supposed analogy, therefore, completely

fails; it would be treason to the State, and to loyal Irishmen, to make Ireland a self-governing colony; and no British politician has as yet countenanced this mode of Home Rule. It has been hinted again, but with bated breath and humbleness, that the relations of Great Britain and Ireland have been so long unfortunate, such a dreary record of disputes and miseries, that we should say to our intractable partner, 'Depart in peace;' in a word, separation is a conceivable Home Rule policy. This proposal has never been discussed in Parliament; the interest, the self-respect, the pride of Englishmen almost forbid the thought. Yet separation, strange as it may appear, would be a better and more safe expedient than either of Mr. Gladstone's schemes of Home Rule. The Imperial Parliament would have complete liberty to exercise its sovereign power in Great Britain; it would have a free hand to prevent injustice in Ireland, either by the strong arm, or by fiscal and other expedients, say, by laying an embargo on Irish products; it would not be subject to the exasperating but often effective checks which Home Rule would in any form involve; and the Imperial Executive would possess ample means to protect the interests of England and of her friends in Ireland. Let it not be forgotten that in perhaps the ablest speech ever made, in the House of Commons, on this subject, Peel declared that he would infinitely prefer separation to a repeal of the Union, by no means so evil a policy as Home Rule.

A few politicians, however, have put the theory forward that 'Home Rule all round' will meet the 'national demand' of Ireland, and give her what they are pleased to call 'self-government.' England, Scotland, Ireland, and perhaps Wales are to have local Parliaments to deal with their own affairs; Imperial affairs are to be directed by an Imperial Council. I am willing to admit that a scheme of this kind would be better than Mr. Gladstone's Home Rule Bill of 1893; it would be less illogical, possibly not

more disastrous. But I must be permitted to doubt whether these sages understand what their project certainly involves ; this, indeed, seems to be rather in the nature of a device to angle for Nationalist votes, without scruple, and then to propose a plan which England, Scotland, Ireland, and Wales have never asked for, and which England and Scotland, at least, would indignantly reject. This scheme is pure Federalism, in the proper sense of the word ; let us briefly consider what this means from the very nature of the case. England, Scotland, Ireland, and, I assume, Wales would form separate States ; they would have separate Legislatures and Executives to manage their local affairs, separate local forces, separate Courts of Justice ; they would be, essentially, separate countries. The Imperial Parliament and its Executive would be the only link between them ; there would be an Imperial army, and navy, and Imperial tribunals ; but the Imperial Parliament and its Executive would only have jurisdiction over Imperial affairs, and would be only the head of the separate States as respects Foreign Powers. But as it would be difficult in the extreme, under these conditions, to distinguish local from Imperial affairs, an arbiter of some kind, armed with sufficient powers, would be necessary to say what affairs were local and what Imperial, and decisively to pronounce on the subject, on the innumerable occasions when the question would arise ; and it would be necessary, too, that there should be some means, perhaps a Referendum to a popular vote, to effect any constitutional change, to reform or to abolish the Constitution itself. This scheme obviously would be complex, intricate, and difficult to carry into effect ; it would be a huge system of divided, and probably conflicting, powers, not easy to reconcile with each other ; for this, and other reasons, it would require a formal Constitution reduced to writing, and setting forth, under distinct heads or articles, the conditions of the Federation that had been established,

the spheres of the authority of the separate States, and the sphere of the authority of the Imperial Council. Is it possible to suppose that the Parliament of the United Kingdom would ever break up this ancient and undivided Monarchy; would tamely surrender its sovereign rights, and would substitute a new-fangled fabric of this kind for the venerable and unwritten constitution of these realms—a majestic temple that has grown up in silence; and that the British people, at all events, would not rise up in wrath at the very thought of such a change? For Federalism ‘amounts to a proposal for changing the whole constitution of the United Kingdom. It is, in fact, the most “revolutionary” proposal, if the word “revolutionary” be used in its strict sense, which has ever been submitted to an English Parliament. The abolition of the House of Lords, the disestablishment of the Church, the abolition of the Monarchy, might leave the English Constitution far less essentially changed than would the adoption of Federalism.’\*

It should be observed, too, with respect to this subject, that the conditions, under which Federalism would have a chance of success, would be absolutely wanting in the present instance. England, Scotland, Ireland, and Wales have long been moulded into a single sovereign State, and united under a supreme Monarchy; no Federation, I venture to assert, has been formed out of communities that have had a government of this kind. Federations, in fact, have almost always grown out of an association of existing States, which desire to remain separate, and yet to be a nation for some purposes; they have not been evolved out of the fragments of one State artificially rent asunder. Again, Federalism requires that no single State should be enormously more powerful than the other partners; there must be something like equality between the different States;† it is unnecessary to remark that England has

\* ‘England’s Case against Home Rule,’ p. 168.

† The German Empire, in which Prussia is the leading State, may

tenfold the resources and strength of Scotland, Ireland, and Wales ; and, in truth, would annihilate the Federation were her will really crossed, and break through the arbitrary limitations imposed on her. Suppose, for example, that England had set her heart on a great foreign war, and had the support of her own Parliament ; does any one suppose that, if she were outvoted, by deputies from Scotland, Ireland, and Wales, in the Imperial Council, even though backed by their own Parliaments, the people of England would submit to be thwarted in this way ; was Samson bound by the withs of the Philistines ? Something like this, indeed, was seen in the great Civil War ; the result was the subjugation of Scotland, Ireland, and Wales, and the complete ascendancy of England, under Cromwell ; an attempt to federalise the Three Kingdoms might lead to a similar issue. Let us assume, however, that, through some evil stroke of destiny, Federalism were made the constitution of these realms, and that this strange arrangement could be made to work even for a few years ; the inevitable consequences, from the nature of the case, would follow. The omnipotence of the Imperial Parliament, the mainstay of the Empire, would be gone ; so would the omnipotence of the Imperial Executive Government, the best security for justice and for equal liberties. Their powers would be parcelled out and subdivided ; they would not survive anywhere in their complete fulness ; they would be distributed in fractions between separate States, and would be transformed and impaired in the process ; real Imperial unity and sovereignty could have no existence. General national weakness would be the probable result, leading, perhaps, to despotism within a short time ; for Federalism is essentially weak ; I have no sympathy with Jacobin France, but the Committee of Public Safety rightly seem an example to the contrary ; but the German Empire is hardly a Federation properly so called ; it is a great military monarchy ruling subject kingdoms.

put Federalism down, when they were engaged in their death-struggle with Europe ; and Napoleon—perhaps the ablest ruler of the nineteenth century—approved of their conduct. But weakness would not be the only consequence ; the dissemination of different powers would certainly produce disputes and conflicts between the Federal and the State authorities ; above all, the very existence of separate States and of a Federal Government would divide allegiance, and powerfully tend to disruption, as was seen in the great Civil War in America. As regards Ireland, the establishment of ‘ Home Rule all round ’ would necessarily be attended by all the evils inseparable from Mr. Gladstone’s schemes ; but Federalism, having been thus made manifest, would probably increase, and in some sense justify, the alienation of Ireland from the other parts of these kingdoms.

Home Rule, therefore, whatever the form it may assume, would be, it is my firm conviction, incompatible with the welfare of the Three Kingdoms, injurious to Great Britain, a curse to Ireland. In the peculiar circumstances which exist in Ireland, and to which I have adverted before, separation, I believe, would be an expedient less disastrous than Home Rule of any description, this involving the creation of an Irish Parliament, and of an Irish Executive, which would be its instrument. Home Rule, in fact, gloss it over as you please, has been forced to the front by an Irish faction, hostile to a man to the existence of British rule in Ireland, and depending on Fenianism in the United States ; this party would be all-powerful in an Irish Parliament ; and Home Rule would be made the means to a ruinous and disgraceful end. Thousands of Irishmen, indeed, honestly think Home Rule would do their country good, and have little or nothing to do with this bad conspiracy ; this too, doubtless, is the case with the followers of Mr. Gladstone ; but Home Rule is an Irish Nationalist movement, and Irish Nationalist movements are dangerous to the safety of the State. The Union, therefore, must be



maintained in the interest of Great Britain and Ireland alike ; and the Union is an international settlement that has endured for a century. But no candid student of Irish history, no impartial observer of Irish affairs, from 1800 to the present time, can deny that the Union has been in many respects a failure. It has been an incident, perhaps a result, of the Union, that Presbyterian Ireland, rebellious from 1795 to 1798, has, we have seen, become attached to the British connection, and is now devotedly attached to England. The power of the Imperial Parliament and of its Executive have kept lawlessness and disorder down in Ireland, and has restrained the evil passions of Irish factions more than was ever the case under the rule of the Irish Parliament. The Imperial Parliament, too, has accomplished reforms in Ireland, if often unwise, in the main beneficent ; and, under the Imperial Executive, justice in Ireland has been administered, for many years, in a very different way from that which was seen a century ago ; its tribunals are perfectly free and impartial. But the Union was, in itself, a bad half measure, tainted with iniquity and false promises ; it did gross wrong to Catholic Ireland ; the evil consequences are felt to this hour. The Union has not fulfilled the sanguine hopes of Pitt ; Ireland, as I have pointed out, is far more behind Great Britain in wealth than she was sixty years ago ; she is perhaps the poorest country in Europe at the door of the richest. The Union, too, has not reconciled the feuds of religion and race in Ireland ; they are as marked as they were a century ago, if not attended with such deeds of violence ; above all, the Union has not made the chief part of the Irish community attached to England, as Pitt confidently predicted would certainly happen. Nor can it be denied that the Irish reforms of the Imperial Parliament have too often been ill-designed and faulty, especially, as we shall see, as regards the land ; and they have unfortunately, in many instances, been concessions to agitation and dangerous social

movements, and have been effected too late to do real good. The administration of Ireland reveals the same defects ; it has been marked by good intentions, which, sometimes, have proved gross mistakes ; and notably it has, over and over again, been shift, vacillating, without principle, and showing a curious disregard of sound Irish opinion. Unquestionably, too, Ireland has, on many occasions, to the indignation of true-hearted Irishmen, been made the mere plaything of British faction, with the worst results to her best interests ; this has been perhaps the most pernicious incident that has followed the Union ; and in the immense revolution which has transformed Ireland, within the last hundred years, the effects that may be traced to the Union have by no means been wholly on the side of good.

These evil consequences cannot be really questioned ; it is very advisable to consider their causes, and if possible to see how they can be removed or lessened. They are partly to be ascribed to the fact that Great Britain and Ireland are countries differing from each other in most important respects, and standing, so to speak, on different planes of existence ; this alone makes British rule in Ireland difficult, and perplexes and embarrasses British statesmen. They are partly due to defects in the English national character, essentially just in intention, and even generous, but with no sympathy with races of a character unlike its own, self-asserting, obstinate, sometimes rude and offensive ; this has had marked and evil effects in the affairs of Ireland. They are largely to be attributed to the nature of Irish administration, seldom consistent, and changing with party changes : British statesmen appear at the Castle ; rule for a few years ; and then depart and give place to successors, who probably carry out a very different policy. They are largely due to the nature of the representation of Ireland, notably of late years ; the Nationalist party—and the same remark applies, in some degree, to the ‘Tail’ of O’Connell—have shown such an

aversion to England, have used such seditious and even criminal language, have been so extravagant and wild in their demands, and have been such a dangerous element in the House of Commons, that Englishmen and Scotchmen turn away from Irish questions with disgust, and Ireland unfortunately has often been the sufferer. But the most important of these causes, one which may be traced throughout Irish history, and has been scarcely less evident since the Union, has been the strange but signal ignorance of Irish affairs—of all, in a word, that relates to Ireland—which has been but too characteristic of the British people, and, in a lesser degree, of many British statesmen. This capital fault aroused the *sæva indignatio*, of Swift; it was exposed by Grattan, O'Connell, even by Lord Clare; it was condemned in severe but thoughtful language by Burke; it has been conspicuous during the events of the last twenty years.\* The resulting mischiefs

\* I feel obliged to refer to these authorities; not in order to stir up resentment against England in Ireland, but to point out a most important, if unfortunate, fact in the relations between the two countries. Swift, in his 'View of the State of Ireland,' Works, vol. ii. 8vo ed. 1890, says, 'We are in the condition of patients, who have physic sent them by doctors at a distance, strangers to their constitution and the nature of the disease.' Burke, 'Correspondence,' vol. iii. p. 438, has remarked, 'I have never known any of the successive Governments of my time influenced by any other feeling relative to Ireland than the wish that they should hear of it and of its concerns as little as possible.' So Grattan, cited by Mr. Lecky, vol. vii. p. 108, exclaimed, 'It is a matter of melancholy reflection to consider how little the Cabinet knows of anything relating to Ireland. Ireland is a subject it considers with a lazy contumely, and picks up here and there, by accident or design, interested and erroneous intelligence.' I quote this passage from one of the speeches of Lord Clare: 'The people of England know less of this country than of any other nation in Europe;' and this passage from one of the speeches of O'Connell: 'We are governed by foreigners; foreigners make our laws. . . . As to Ireland, the Imperial Parliament has the additional disadvantage springing from want of interest and total ignorance. I do not exaggerate; the ministers are in total ignorance of this country.' This want of knowledge of Ireland, too often associated with indifference, has, I repeat, been distinctly made manifest of late years.

have been numerous and grave in the extreme ; can nothing be done to mitigate these and to make them less, consistently with maintaining the Union in its full completeness ? I, for one, have long thought that much could be effected were the Imperial Parliament occasionally to hold its sessions in Dublin, and to govern Ireland directly, so to speak, on the spot. This very measure was proposed by many distinguished Irishmen, during the agitation for Repeal in 1843-44 ; it was made the subject of an eloquent eulogy by Sheil at O'Connell's trial ; it was seriously entertained by the Whig opposition of the day, as we know from a remarkable letter of Lord Waveney. This policy unfortunately passed out of sight ; but even now, I believe, it would do the greatest good in Ireland. It would be something that the proposed change would cause the wealth of England and Scotland largely to flow into a poor country ; that Irish absenteeism would be diminished ; that Ireland would become, more than she is now, an attractive place of resort to the traveller. But it would be far more that the presence of the Imperial Parliament in College Green would necessarily largely remove the ignorance of Irish affairs I have just referred to ; it would make English and Scotch members familiar with the requirements, the feelings, the wishes of Irishmen ; as has happily been said, it would render our Irish legislation and administration ' racy of the Irish soil.' And probably more than any other expedient, it would exorcise the weak phantom of Home Rule by bringing Irishmen in contact with the majesty of the Sovereign Assembly of the British Empire. I shall not comment on the petty inconveniences the scheme might cause ; really they are not worthy of serious attention.

The occasional presence of Royalty, too, in Ireland, as was made manifest during the late Queen's visit, unquestionably would have beneficent results. It would gratify a sentiment of Celtic nature, always attached to persons rather than to institutions and laws, and especially attached

to rulers and chiefs, which, in Ireland, has been scarcely gratified before ; it would spread far and wide a happy and good influence ; it would certainly improve the social life of Ireland, and add something to her scanty material wealth. The maintenance of the Union, however, is the first requirement of a sound Irish and Imperial policy ; one means of strengthening that fundamental law of these realms, consistently with strict constitutional justice, nay, if constitutional wrong is not to continue, has long been apparent to impartial minds. The over-representation of Ireland, in the House of Commons, is a flagrant anomaly, acknowledged for years ; as I have remarked, it was largely expected that this important subject would have been taken up before this by Lord Salisbury's Government, and have been settled in the Parliament of 1895-1900. Taking the test of population alone, Ireland has, compared to England, Wales, and Scotland, an excess of twenty-three members ; taking the test of population and property combined, she has an excess probably of from thirty to forty. I am willing to allow that, in this matter, we ought not to follow arithmetic only ; Ireland, a poor country, far away from Westminster, may have a claim to a representation somewhat more numerous than mere figures would give her. But can anything be more unjust, nay, absurd, than that Ireland should have one hundred and three members, and that the world of London, with a population about the same as that of Ireland, and probably possessing tenfold wealth, should have little more than half that number ? This excessive representation must be reduced, and Irish Nationalists cannot here appeal to the Union ; the Union did not save the Established Church of Ireland, secured by the Treaty in emphatic terms ; and the Union must not be wrested to work gross injustice. The anomaly can be only removed by a large scheme for the redistribution of seats, founded on sound constitutional principles ; and should this become law, as I confidently

hope will be one of the achievements of the existing Parliament, the Union will acquire a new security, for the Nationalist vote in the House of Commons would be greatly reduced, and the Irish Unionist vote would be greatly increased. A very few figures will prove this : the rural populations of the Unionist counties of Antrim and Down are upwards of four hundred and thirty thousand souls ; the rural populations of the Home Rule counties of Kildare, Kilkenny, King's, Longford, Wicklow, and Louth have a population less than three hundred and ninety-eight thousand ; \* yet Antrim and Down have only eight members, the other six counties have no less than twelve. The same disparity runs through all the Irish counties ; in the boroughs of Ireland it is even more visible. Protestant and Unionist Ireland, in a word, has probably fifteen or sixteen members too few ; Catholic and anti-Unionist Ireland fifteen or sixteen too many ; it is high time this plain wrong should be redressed ; it is unnecessary to point out how this would strengthen the Union. And what probably is not less important, it would make the representation of Ireland, not, what it is now, an utterly false index of Irish opinion, but a reasonably fair and trustworthy index ; were the Irish representation cut down to eighty members, the Nationalists would probably command not more than fifty seats ; the Unionists would command about thirty ; and this, taking all things into account, would be a proportion approaching what is just. The 'doing' of right, in this matter, has been too long deferred ; loyal Ireland feels strongly upon the subject ; the reform would be altogether in the interest of the State.

\* These figures are taken from the Irish census of 1891. By the census of 1901, the population of Antrim and Down has increased, and that of every other county in Ireland, except Dublin, has declined. The over-representation of Ireland has thus become more than ever an unjust anomaly.

## CHAPTER III

### THE QUESTION OF THE IRISH LAND—SKETCH OF THE HISTORY OF THE LAND SYSTEM OF IRELAND TO THE YEAR 1870

Great importance in the history of Ireland of the conditions of land tenure—The ancient Celtic land system and its characteristics—The Norman conquest of Ireland—Norman feudalism in the Irish land—The policy of Henry VII., and especially of Henry VIII.—The era of the conquest and confiscation of the Irish land—The possessions of the O'Connors of Offaly wrested from them—Forfeiture of the domains of Shane O'Neill, and of the Earl of Desmond—Attempts at colonisation—All Ireland made shire land—The extinction of the old Celtic land system—The Plantation of Ulster—Progress of confiscation during the reigns of the two first Stuarts—The Civil War—Immense confiscations made by Cromwell—His scheme of colonisation a failure—The era of confiscation closes after the battle of the Boyne and the fall of Limerick—The Penal Code of Ireland—Its fatal effects on the Irish land—Dismal period in Irish landed relations—Gradual improvement—The period described by Arthur Young—Evil traces of the past remain—Whiteboyism and agrarian disorder—State of Irish landed relations up to the rebellion of 1798, and after the Union—Over-population and the results—Distress after the Peace—State of Irish landed relations up to 1844—The Report of the Devon Commission—The Famine and its effects on the Irish land—The Encumbered Estates Acts—State of Irish landed relations from 1848 to 1868.

THE fortunes of many communities, it has truly been said, have been decisively affected by the conditions of the ownership and the occupation of the soil. The social, even the political, life of modern Europe has been, in a great

measure, moulded by the land tenures that have grown out of the feudal system ; I need only refer to the history of England, of France, and of Germany. This remark, however, especially applies to the events that make up the annals of Ireland ; that long and unhappy tale of misfortunes and errors is intimately associated, all through, with the land, and with the relations connected with it. Modern research has shown how grotesque and mischievous was the ignorance of the Tudor lawyers and statesmen, who described the ancient organisation of the Irish land as a medley of barbarian and pernicious usages ; it was an archaic and imperfect specimen of the feudal system, with differences indeed, but marked with its essential features. Norman feudalism, lawless and ill-ordered, was for centuries, after the first Conquest, placed beside this primitive form of society, in parts of a country not half subdued ; the results were seen in incessant strife and discord, and in social anarchy, which prevented civilisation growing up. The Irishry had well-nigh driven the Englishry into the sea, when Henry VII. tried to make his authority felt in Ireland ; his successor, partly a Celt in blood, and a real statesman, devised a noble scheme for bringing an ill-governed dependency within the domain of order and law, by planting an Anglo-Norman and native aristocracy in the soil, subject to a strong monarchy that would have protected the community as a whole. Most unfortunately the policy of Henry VIII. was not carried out ; in the great conflict of the sixteenth and the seventeenth centuries, Ireland was drawn into a long struggle with England, and was repeatedly made a place of arms for her foes ; an era of savage conquest, accomplished piecemeal, with ruthless confiscation following in its train, was protracted during nearly a century and a half ; and at the close of the reign of William III., nine-tenths probably of the land of Ireland had been wrested from its former possessors, and the old Celtic land system had been destroyed by the sword and



by law. Race and religion made this position of affairs much worse; the age of Protestant ascendancy in Ireland began; in infinitely the greatest part of the island the land was parcelled out among a caste of owners distinct in blood and faith from the children of the soil, and lording it over an oppressed peasantry; and the system was propped up by a code of cruel laws, which maintained and, so to speak, stereotyped these evil divisions. The lines of the land system of Ireland were thus finally laid down; a variety of economic and social causes increased and deepened their extreme harshness; and though they have gradually been softened, and are now all but effaced, their traces and the results are still to be seen. The last thirty years have witnessed repeated attempts to effect radical changes in the modes of the ownership and the occupation of the land in Ireland; they have wrought a revolution in Irish landed relations, and have well-nigh turned them upside down; but the consequences have assuredly not been fortunate. The land system of Ireland has been made a chaos of economic disorder, of dissensions of class, of legalised wrong, absolutely incompatible with social progress and the general welfare.

I must glance, for an instant, at the distinctive features of the land system of Ireland in the Celtic age, for despite the effects of confiscation and conquest, faint traces of it may still be seen, and have a kind of influence.\* As was the case in all communities of the Aryan stem, the land originally was largely held in collective ownership; but agriculture developed individual ownership by degrees, though less so in Ireland than in more progressive countries. The people were settled on the soil in tribes, clans, and

\* For an admirable account of the ancient land system of Celtic Ireland, see Maine's 'Early History of Institutions.' I may be allowed to refer to an article on this work, from my pen, in the *Edinburgh Review* of July, 1875, and to the first chapter of my 'History of Ireland,' in the Cambridge 'Historical Series.'

septs, these being the larger and the smaller units; the modes of the tenure of the land, misinterpreted by Elizabethan sages, differed widely from each other, but revealed the traditions of old patriarchal usage and power, especially in their canons of descent and succession. The feudalisation of the land, as it has been significantly called, a process which took place in nearly the whole of Europe, was also witnessed in Ireland, to a certain extent; but this was not so complete and strongly marked as in France and England. The land, nevertheless, was, throughout the island, held ultimately from a supreme monarch; it was divided, under him, among families of princely chiefs, who ruled vast tracts with scarcely controlled authority; inferior chiefs were subject to these; the organisation of the land had much in common with the organisation of the Anglo-Norman manor, and with the position of the Lord Paramount of every manor, the head of the English State. The Irish kings and chiefs had lands in demesne; they had a landed and a personal *noblesse*; the territories they ruled were held by classes strongly resembling the free tenants, the villeins, and the serfs of the feudal system. All this, however, was not as perfectly defined as it was in lands feudalised to a higher degree; and though the Davieses and Spensers were wholly in error in representing the dependents of the Irish kings and chiefs as little better than a horde of fighting men and slaves, Ireland never fully possessed the liberties feudalism secured. The Ceile of substance, who had lands of his own, seems to have been in an inferior position to the English freeholder; the Saer stock and Daer stock tenants held their lands by a tenure like that of the metayers of France; the Fuidhirs were kept in complete subjection, and had not even the rights of the villein. The land, too, was still largely held in collective ownership; in its occupation this is even now seen in backward and poor districts; and, curiously enough, distinctions were drawn between what was a 'fair' and a 'rack rent,'

words still common in the mouth of the Irish peasant, and to which recent legislation has given its sanction.

As in the case of most lands where anything resembling feudalism prevailed, with the single exception of England, under her strong Monarchy, Ireland in these circumstances was torn by continual discord, increased by the recurring struggles with the Dane. The Celtic kings and chiefs, nevertheless, were beloved by their people; the land system fell in with Celtic tribal ideas and sentiments. I pass over the incidents of the first Norman Conquest; in the course of time, an Anglo-Norman colony was established, within a Pale ever-varying in extent, and held parts of the country under feudal conditions, the remaining, and by far the greatest, parts being left in the possession of the Celtic kings and princes. Anglo-Norman feudalism, however, was completely different, in Ireland, from what it was in England; it was not subject to vigorous kingly rule; it was confined within comparatively small limits. In these circumstances the Pale fell into the hands of a few leading and great families; these, as had been largely the case in Scotland, formed a domineering and oppressive *noblesse*, continually engaged in quarrels between themselves, and in petty wars with the Celtic chiefs, and completely superior to the royal power in England. The Geraldines, the Butlers, the De Burghs, and other great houses, had no law but their own wills in their vast lordships; their exactions and tyranny became a by-word; their lives were spent in savage feudal strife, and in 'hostings against the Irish enemy.' Strange to say, too, these scions of a mighty conquering race fell under the spell of the Celtic genius, and, as it was said, 'became more Irish than the Irish themselves;' they were at least largely assimilated to a Celtic model, and they adopted many of the usages of the Celt. It was not much otherwise in the Celtic region outside the Pale; the Irish chiefs often blended in marriage with the Anglo-Norman settlers;

but they were continually at war with them, and with each other. Under these conditions, feudalism, in its best aspects, could take no root, in the land, in Ireland; and there is much reason to believe that the archaic Irish land system was gradually changed and almost broken up, the power of the kings and chiefs being greatly increased, and the position of their dependents being made essentially worse. It is obvious that in a land, a scene of such disorder and misrule, civilisation and all that the word implies could not exist; Ireland was probably more barbarous at the close of the fifteenth century than she had been when she first saw Henry of Anjou. The Pale had been restricted within ever-narrowing bounds; generations of colonising 'Englishry' had entered the country, and had left it in angry despair; the 'Irishry' had encroached on their conqueror's domain; the work of Strongbow and Fitzstephen appeared to be undone. Especially it was observed that nothing like a middle class, even then the best element in the social life of England, had been able to develop itself in Ireland, and that the humbler classes were always in a state of wretchedness, ground down by exaction, and exposed to incessant wrongs of all kinds. 'What common folk of all the world'—these were the words of a State paper of the age—'is so poor, so feeble, so evil be seen in town and field, so greatly oppressed and trodden underfoot, fares so evil, with so great misery, and with so wretched a life, as the common folk of Ireland?'

Henry VII. strengthened the authority of the Crown in Ireland; the Viceroyalty of Poynings marks an epoch in her chequered annals; but the conduct of the king was shifting and weak; the land fell under the control of the great House of Kildare; the Irishry were driven back, but in no sense subdued. Surrey, the victor of Flodden, intreated Henry VIII. to make the country his own by sheer force of arms; but his master refused in striking

language; and proposed a scheme for bringing Ireland under the control of the Monarchy, for encouraging civilisation and promoting order, the wisest that has ever suggested itself to a British statesman. He made several of 'the degenerate' Norman *noblesse* peers; he extended the same dignity to several Irish chiefs; he assembled representatives of Ireland in a Parliament composed of both races; he appointed commissioners to go through the country and to punish crime; above all—and this deserves special notice—he tried to conciliate the Celtic community by bringing their usages within the cognisance of the law, and giving them effectual legal sanction; and he condemned the attempts being already made to force laws on them peculiar to England. Had this enlightened policy been steadily pursued, the history of Ireland would have run a wholly different course; but destiny, that has played so sinister a part in Irish affairs, interfered to thwart the admirable designs of the king. The great Geraldine rebellion broke out, supported by irregular Celtic risings; from this time forward, during five generations of man, the era of cruel but intermittent conquest, accompanied by wholesale confiscation, set in. The powerful tribe of the O'Connors of Offaly, closely associated with the fallen House of Kildare, was the first to feel the weight of the arm of England; its territories were forcibly overrun and annexed, given the name of the King's and the Queen's Counties, and peopled with a colony of settlers from England. Celtic Ireland ere long was brought into the conflict between Elizabeth and Philip II., the representatives of the faiths that were dividing Christendom; the princely chief, Shane O'Neill, fell a victim to the English conquerors, though their quarrel with him was not wholly one of seeking the assistance of a foreign enemy; his vast domains were, also, in part forfeited, in part handed over to a puppet of English power. The frightful Desmond rebellion followed; it was directly

encouraged by the Pope and by Spain ; after a protracted struggle approaching a real civil war, the immense lordships of the great Geraldine House were confiscated, and granted to a colony of English blood. Tyrone, the real successor of his kinsman, Shane O'Neill, a soldier and statesman of no ordinary parts, seeing, as he bitterly said, that his 'lands were marked down by the spoiler,' endeavoured, not without partial success, to combine a great Irish League against England ; he entered into an alliance with Spain ; a Spanish army landed on the southern coast of Munster ; after a long and sanguinary contest, Tyrone yielded, but his resistance had been so formidable that he was allowed to retain his possessions.

The subjugation of a large part of Ireland, in the Elizabethan wars, was marked by incidents of a most atrocious character. The Government had no regular army to act in the field ; it was compelled largely to rely on armed levies of the Englishry, and on bodies of the Irishry attached to the conqueror's standards ; for in this, as in nearly all instances throughout their history, the Irish Celts were at feud with each other ; Celtic Ireland was a house divided against itself. The queen, it has been written, 'ruled over blood and ashes,' when Mountjoy sheathed his victorious sword ; the memory of this period still lives in Irish tradition. A season of exhaustion and repose ensued after James I. had ascended the throne ; but the time, in the phrase of Tacitus, had an evil aspect in peace itself. The Pale had long before this been effaced ; conquest and confiscation had spread over nearly the whole island ; the domination of England was felt almost everywhere. As the result, the whole of Ireland was made shire land ; the old Celtic land system, which still widely prevailed, was swept away by decisions of the Anglican Courts of Justice ; it was declared to be 'a lewd and not law-worthy thing ;' all the Irish land was subjected to English modes of tenure ; they were imposed on a

people which detested these gifts of the stranger; innumerable tribal rights were destroyed. Ere long the work of confiscation began again; the domains of Tyrone and of his kinsman O'Donnell were pronounced forfeited for reasons that have never been ascertained; the Crown was placed in possession of nearly six counties of Ulster. Up to this time the settlements of English colonists, which had been made in Ireland by Tudor conquest, had failed; the colonists had been almost lost in the midst of the Irishry, who hemmed them around. This immense confiscation was, however, in part successful; it was carried out on comparatively enlightened principles; it has produced the famous Plantation of Ulster; and this, with other settlements in the counties of Antrim and Down, has established, in a large part of the northern province of Ireland, a hardy and thriving community, in the main, of Scottish blood. Confiscation, nevertheless, did not stop here; 'the ravages of war,' in Burke's language, were 'carried on amidst seeming peace;' enormous tracts were torn from their former owners on pretexts usually of the flimsiest kind, and were flung to Court favourites, to jobbing speculators, to greedy adventurers of the baser sort. By this time three-fourths probably of the soil of Ireland had passed into the hands of a new race of possessors; the descendants of Anglo-Norman nobles and of the Celtic princes had been sufferers well-nigh in the same proportion. At last Strafford marked out the whole province of Connaught, for what has been called 'his majestic rapine;' this and other innumerable acts of spoliation and wrong unquestionably were the paramount cause of the great Celtic rising of 1641. Another and soon to be a most potent element of evils and troubles had already begun to make its sinister presence felt in Ireland. In the great religious schism of the sixteenth century, England had become Protestant, Ireland had remained Catholic, and each had taken opposite sides in the conflict

that followed; though the Elizabethan wars were rather struggles of race than of faith. But as conquest and confiscation progressed in Ireland, the Anglican Church, a scion of the Norman Church of the Pale, was erected on the ruins of its Celtic Catholic rival; the land more and more became possessed by settlers alien in creed from the old owners, and from the vanquished children of the soil; and harsh laws had begun to deepen the distinctions between them. Nevertheless, though its signs had in some measure appeared, the era of Protestant ascendancy and Catholic subjection had not been developed in Ireland, as yet, in its worst aspects.

The wild Celtic rising of 1641 was followed by a rising of the old Englishry of the Pale—the descendants of the first Anglo-Norman settlers; both movements were probably encouraged from France; though widely different, they ran into each other. The great Civil War was now running its course in England; Ireland, for the most part, took the side of the king; the majority of Englishmen were certainly on the side of the Parliament. I cannot retrace the scenes of the contest in Ireland; after a fierce and protracted struggle, in which an envoy of the Pope became the representative of an ill-united Irish League; in which<sup>a</sup> Preston and Ormond led the forces of the Pale, and Owen Roe O'Neill was at the head of the Irish Celts,—the whole island was subjugated by the sword of Cromwell, as it never had been subjugated before. Drogheda and Wexford are names of woe in the annals of Ireland; but the conquest of the Protector, ruthless as it was, was not so cruel as that of the Elizabethan soldiers; if deeply stained with blood, it was rapid and completely decisive. The colony in Ulster had begun to flourish; Cromwell designed a scheme for the colonisation of the vanquished country more thorough and extensive than any which had been designed before. Three-fourths of Ireland had been in arms against the Parliament; that assembly had made



grants by anticipation of Irish forfeited lands to 'adventurers' who had advanced it moneys; an opportunity for immense confiscations had arisen; the Protector was not slow to take advantage of it; his Puritan fanaticism, his hatred of the Irish people, especially of its 'idolatrous Papists,' his strong English and religious sympathies, united to confirm him in his purpose. The forfeited lands in four of the Irish counties were appropriated to the Commonwealth and its uses; those in eighteen were to be granted to the 'adventurers' and the soldiery of the late conquest; those in seven were to be allotted to the army in England. The grants were to be either free, or to be purchased at nominal prices; the owners, who had lost their lands, were to be deported to Connaught—'Hell' was the alternative, the tradition runs—and 'Courts of Claims,' as they were called, were to be set up, to adjudicate on the conduct of those who were to be dispossessed—they were to be subjected to a test which scarcely one could satisfy—and practically to measure confiscation out under the pretence of law. By these means Cromwell calculated that some forty thousand colonists, of English blood and of the Puritan faith, would be poured into the millions of acres which the sword had placed in the hands of his Government; these would form a prosperous settlement loyal to England; would keep rebellion in Ireland for ever down; and would regenerate a land taken from a race akin to the Amalekites of old. As a foretaste of the new and glorious order of things, Sir William Petty, a very able man, remarkably skilful in feathering his own nest, made a cadastral survey of Ireland, which still remains.

Cromwell's scheme of confiscation was thoroughly carried out, spite of much angry wrangling between the Puritan warriors. The remains of the defeated Irish armies went, in thousands, into exile in foreign lands; they were the heralds of the renowned soldiery who, for a century and

a half, were deadly, but honourable foes of the British name. The rule of the Protector in Ireland was stern but enforced peace ; Ireland was prostrate in the exhaustion of despair ; there is much proof that, under the Cromwellian settlement, the country made a kind of material progress. But Cromwell's great scheme of colonisation failed, as such schemes had failed in many instances before ; a large majority of the 'adventurers' and the soldiers sold their possessions, usually for a mere nothing : many 'degenerated' like the old Norman families, and, won over by the spells 'of the daughters of Heth,' had, in one or two generations, become 'mere Irish.' The ultimate result of the Cromwellian conquest was to establish in Ireland three or four thousand owners of the soil, of English blood and Puritan leanings, without the support of inferior dependents, in the midst of a vanquished population hostile in race and faith ; the sentiments thus engendered have never died out ; to this day 'a Cromwellian landlord' is a name of reproach in Catholic Ireland. At the Restoration hope for a moment revived in the hearts of the ruined owners, who had been dispossessed by Cromwell, and of whom hundreds had fought for the Crown ; but this was dashed by the perfidy of Charles II. and his courtiers ; the Cromwellian forfeitures were, in the main, confirmed ; large tracts were given back to favourites of the Stuarts, but thousands of beggared families lost their estates for ever through a policy of cruel baseness and wrong. Ireland remained quiescent for nearly thirty years ; she even prospered under the wise rule of Ormond—one of the noblest figures in her unhappy history ; but the bitter memories of the past lived in the conquered people, though, as has repeatedly been seen in a Celtic race, they were treasured in silence, and caused little apparent trouble. James II. ascended the throne in 1685 ; he had a great opportunity to mitigate many of the wrongs of Ireland ; he might have removed some of the

evils of the Cromwellian conquest, and have effected changes in the settlement of the land, which, at least, would have done partial justice. But the unfortunate king was a bigot, and, in no sense, a statesman ; like his father he tried the desperate policy of making use of Ireland in his designs against English liberties ; he sent Tyrconnell to Dublin, and, in a few months, revolution had broken out through the country ; English and Protestant Ireland was well-nigh trampled underfoot ; Catholic and Celtic Ireland rose up in a wild hope of revenge. I cannot even glance at the stirring events that followed ; the descendants of ruined barons of the Pale and of Celtic princes driven from their lands and their homes, joined in a great effort to raise a large armed force ; the rising almost assumed a national aspect ; but after the Boyne and the fall of Limerick, it was finally quelled by William III. The process of confiscation was once more renewed ; thousands of acres were taken forcibly from those who had resisted in the field, and were handed over to a new race of colonists belonging to the blood and the creed of the victors ; and the shameful violation of a solemn Treaty made all that was cruel in spoliation worse.

The era of conquest in Ireland and of confiscation by force—an agony prolonged for a century and a half—was brought to an end in the reign of William III. This is not the place to examine the question on which side, as between England and Ireland, the balance of the wrongs that were done inclines ; but if much that is cruel and shameful is to be laid to the charge of England, Ireland, it cannot be forgotten, crossed her path repeatedly in an age of grave national perils and troubles, and, moreover, wrecked her own cause by her wretched dissensions. The Irish land had now nearly all fallen into the hands of a caste of owners, of English and Scottish descent, and in faith Protestant, divided from a people of Catholic occupiers for the most part of the Irish race ;

wide lines of demarcation had been drawn between them ; and there was no middle class to bridge over the gulf. In a part of Ulster alone where the proprietors and the holders of the soil were largely of the same religion and blood, was there the promise of a more auspicious order of things ; even here causes of disunion were not wanting. Nor were these the only vices and dangers of a land system which has scarcely had a parallel. Enormous tracts had been bestowed on owners who never saw their estates ; absenteeism existed to an immense extent ; their lands, too, had, in thousands of instances, been underlet to a class of intermediate owners, who were to form a body of most oppressive landlords. In addition, the representatives of numbers of ruined families still vegetated on the domains which had been their own ; the few families which had escaped from the spoilers, were held in reverence by the peasantry around ; elements of disorder and trouble continued to fester. The destruction, too, of the old Celtic modes of land tenure, and the substitution of the English system, had unjustly annihilated tribal rights wholesale ; the free, and other dependents of the Irish chiefs, had sunk into the position of mere tenants at will, that is, at the mercy of foreign and often unknown masters. One of the worst, if not the most apparent evil, of the gigantic confiscations which had taken place, and on which the land system had, so to speak, been founded, was that the respect which attaches to the ancient ownership of land, and which forms, perhaps, its surest support, could hardly exist in any part of Ireland ; the disastrous consequences may be traced to the present hour. Landlords, with titles of yesterday, won by the sword, could not feel the interest in their estates and in the inhabitants on them, naturally felt by owners of gentle and ancient descent ; the land which, as has been said, had been flung like a fox to ravening hounds, could not attract to it happy and peaceful memories ; the very Government had learned to

think it could deal with the land as it pleased, and treated the rights gained by confiscation with contempt. Prescription, the strongest cement of property, had no place in this ill-compacted land system.\*

The era of Protestant ascendancy bringing Catholic subjection with it, had now set in for many years in Ireland; its evils were aggravated by harsh divisions of race, and by more than a century of bitter memories; its effects were more conspicuous in the land than in other social relations. This unnatural and calamitous position of affairs might, however, have been replaced ere long by a better order of things, had it not been artificially maintained and made enduring by legislation unexampled for

\* In the case of this, as of all the chapters, a list of the principal authorities and sources of information will be found in the preface to this book. For the conquest and confiscations of the Irish land, from the Norman Conquest to the end of the reign of William III., see 'The Statute of Kilkenny,' edited by James Hardiman; 'The Discoverie of Sir John Davies;' 'The Carew Papers,' edited by J. S. Brewer and William Bullen; Spenser's 'View of the State of Ireland;' Holingshead's 'Chronicles of Ireland;' Carte's 'Life of Ormond;' Lord Clanricarde's 'Memoirs;' Sir William Petty's 'Political Anatomy of Ireland;' 'Macariæ Excidium;' and King's 'State of the Protestants of Ireland.' As regards modern authorities, numerous, and some very valuable, the reader may be referred to Froude's 'History of England,' vol. ii. ch. viii.; vol. v. ch. xxviii.; vol. viii. chs. vii., xi.; vol. x. ch. xxiv.; vol. xi. ch. xxvii.; to Mr. Lecky's 'History of England in the Eighteenth Century,' vol. ii. ch. vi.; and to the Irish chapters in Mr. Gardiner's 'History of England,' from the Accession of James I. to the outbreak of the Civil War; to his 'History of the Great Civil War,' vol. i. chs. vi., xi.; vol. ii. chs. xxvii., xxxvii., xlv.; and to the Irish chapters of his 'History of the Commonwealth and Protectorate.' Other modern works on the subject are Sigerson's 'History of Land Tenure in Ireland;' 'An Historical Account of the Plantation of Ulster,' by the Rev. George Hill; 'The Cromwellian Settlement of Ireland,' by John P. Prendergast; and the 'Life of Sir William Petty,' by Lord Edmund Fitzmaurice. See a review by me of this last work in the *Edinburgh Review* of July, 1895; and also chs. iii., iv., and v. of my 'History of Ireland, 1494-1868,' referred to before. There are innumerable minor authorities; and Hallam's 'Chapter on Ireland,' vol. iii., may be studied.

its far-reaching cruelty. I cannot attempt to describe the Penal Code of Ireland; in the emphatic words of Burke, 'it was a complete system, full of coherence and consistency; well digested and well composed in all its parts; it was a machine of wise and elaborate contrivance; and as well fitted for the oppression, impoverishment, and degradation of a people, and the debasement in them of human nature itself, as ever proceeded from the perverted ingenuity of man.'\* The objects of these execrable laws were threefold: to exclude the Irish Catholic whether of Anglo-Irish or Celtic descent—misfortune had well-nigh effaced the distinction—from every office of trust in the State, from every profession, almost from every walk of life; to persecute and proscribe the Catholic Church of Ireland, and to place its priesthood under a humiliating ban, and finally to ruin and degrade the few remaining Catholic owners of the soil; to prevent the Irish Catholic from acquiring any real interest in it; and, above all, to keep the Catholic peasantry in a condition of thralldom.† The Code was only too successful in compassing its ends; I pass from its operation as regards the two first, to point out how it sought to attain the third, and how its provisions affected the Irish land and the manifold relations connected with it. The estate of the Irish Catholic owner was not to follow the ordinary courses of descent; it was 'to gavel,' and to be divided among many persons; this was for the avowed purpose of making 'the landed property of Papists crumble away, and disappear.' The Irish Catholic owner was subjected to cruel enactments that literally set his household against him; his wife and children were bribed to become his foes; law sate at his

\* 'Letter to Sir Hercules Langriche:' 'Works,' vol. i. p. 560, ed. 1834.

† For an account of the penal laws of Ireland, see Vincent Scully on 'The Irish Penal Laws;' Howard's 'Popery Laws;' and Burke's 'Tracts on the Popery Laws,' a short but masterly work.

hearth to make his existence wretched. The Irish Catholic, too, was forbidden to acquire land by purchase or even to possess an incumbrance on it ; as far as possible the ownership of land was strictly confined to the Protestant caste. But the wrong that, in its consequences at least, was perhaps the worst, was that the Catholic occupier of the Irish soil could not obtain anything like an advantageous tenure ; he could not have a lease for a period beyond thirty-one years, and this, too, at an excessive rent ; and, in the great mass of instances, he was a serf holding merely at will.

The forty years that succeeded the death of William III. are certainly the most mournful period in Irish history. The memories of conquest and confiscation were still fresh ; the Penal Code kept Catholic Ireland in its chains ; society was fashioned on the type of the domination of a class, separated from a whole community in race and faith. Nothing was left undone to perpetuate this evil order of things ; the Irish Parliament was a mere oligarchy of the sons of the colonists of Elizabeth, Cromwell, and William, apart from a few leading men in Ulster ; its legislation for the vanquished race was barbarous ; Lords-Lieutenant spoke of the Irish Catholics as of 'the common enemy ;' a 'Papist was presumed not to exist' in the Irish Courts of Justice. Meanwhile the penal laws were relentlessly carried out for years ; the Irish Catholic was placed under a universal ban ; the Catholic Church of Ireland lay, as it were, in the valley of the shadow of death. But the direst consequences appeared in the land, and in the social life of the landed classes ; these were most calamitous and have still left their traces. Many of the few Catholic owners abandoned their estates, and carried their swords into foreign lands, where some rose to well-deserved eminence ; a small number conformed to the dominant faith in order to exist in comparative peace at home ; the majority clung to their lands and bowed their heads to

oppression. The Protestant lords of the soil were what their antecedents and the law had made them ; they were long a harsh and exacting order of men, filled with bigotry and the pride of a conquering race ; they regarded the inferiors they ruled as pariahs and helots. But, as usually happens, when society is in an unnatural state, they did not prosper amidst the ruins around them ; their lands were kept on a kind of pernicious mortmain, as they could not mortgage or sell them freely ; absenteeism with all its mischiefs greatly increased ; and middleman tenures largely multiplied, subjecting the peasantry to a detestable breed of landlords, Protestants and of English descent, like their superiors, but much worse tyrants. As for the mass of the Catholic occupiers of the soil, they were kept down in the lowest state of serfdom ; but multitudes found their way into foreign armies ; ' the wild geese,' as they were pathetically called, flew to Austria and, above all, to France, where, in the ranks of the celebrated Irish Brigade—' ever and everywhere ' true to the Bourbon lilies—they won renown at Dettingen, Fontenoy, and other fields of fame. The aspect of Ireland bore too faithful witness to the misery engendered in this evil order of things. The country was still covered with the wrecks of the late wars ; the habitations, even of the Protestant gentry, were squalid and mean ; the towns were, in many instances, sinking into decay ; the peasantry were huddled together into villages of huts ; the traveller roamed through vast wastes of unfenced pasturage, evidences of a land almost left in a state of nature. Hideous famines were of repeated occurrence ; one, that of 1739-41, swept the population away in tens of thousands ; the Irish Parliament characteristically did nothing to help the sufferers ; it met the emergency by strengthening the means to enforce the payment of rent. The miserable condition of Ireland was made worse by the legislation of the British Parliament, which treated the country as a conquered colony ; and, true to the principles of the mercantile



system, impeded or prevented the growth of several Irish industries. This was, of course, most injurious to the Protestant settlers; but these were held down by the ruling power; as was finely said, 'they knelt to England on the necks of their countrymen.' The state of things in the colonised parts of Ulster was somewhat better; but the Scottish and Presbyterian population of this corner of Ireland had not a few causes of serious complaint.\*

In the next generation a great but gradual change passed over the state of the Irish community. The Penal Code was not in letter relaxed; but the evil spirit which had conceived it lost much of its force. The men who had fought at the Boyne and at Aghrim had passed away; the human conscience, moved by the influences of the eighteenth century, revolted from the barbarous legislation of a half-fanatical age. The Irish Catholics slowly began to make themselves felt in the State; many amassed large fortunes in foreign commerce; shut out as they still were by law from almost every profession and office, they made their way into the medical calling, and especially at the Bar, where their disabilities were evaded or ignored. The Catholic Church was no longer proscribed; its worship, indeed, was still carried on under degrading conditions; but its priesthood were permitted to perform their sacred functions in peace; its dignitaries were even countenanced

\* For the state of Ireland and of the Irish land at this period, see the Irish Statute Book from 1700 to about 1750, and especially the writings of Swift and Berkeley on Irish affairs. Swift, however, is not just to the Irish landed gentry, many as were their faults. See also the 'Letters' of Archbishop Boulter, the virtual ruler of Ireland during a series of years, and of Archbishop Syngé. Reference, too, may be made to Molyneux's 'Case of Ireland,' and to Hutchinson's and Caldwell's 'Restraints on the Trade of Ireland.' For modern authorities, consult Lecky's 'History of England in the Eighteenth Century,' vol. ii. ch. vii.; vol. iv. chs. xvi., xvii. Froude's 'English in Ireland' is very inaccurate and one-sided for this period; but his fine romance, the 'Two Chiefs of Dunboy,' contains a brilliant, and, in the main, a true account of the state of Irish social life in those days.

by the men in power at the Castle. This great social change was conspicuously seen in the land ; landed relations were markedly improved, and partly transformed. The Catholic owners were permitted to hold their estates free from the cruel vexations of the past ; they began to live on terms of friendship with the Protestant caste ; legal fictions annulled the laws which had made their lives wretched ; their lands were, in many instances, held by the Protestant gentry on secret trusts ; and these, though contrary to law, were, as a rule, most honourably fulfilled. The principal, however, and most decisive change appeared in the position and the sentiments of the Protestant lords of the soil. As time rolled on, and threw its kindly growths over the settlement of confiscation and the sword, these men began to feel that Ireland was their country and home ; they became, to a certain extent, Irishmen ; they felt sympathy, by degrees, with the conquered serfs in their midst. This feeling was strengthened by the tyrannous selfishness of the British Parliament, which treated Ireland as if she were its footstool, and of the official class, nearly all Englishmen, who lorded it over the land they despised ; an ' Irish interest ' grew up in the Parliament at College Green, composed very largely of the Protestant landlords ; this became patriotic, in a certain sense, and a protector of the scanty rights of Ireland. As social order, too, was seldom disturbed, the wealth of the country had considerably increased ; the gentry acquired a greater interest in their estates, and became more and more attached to them ; absenteeism, as the result, perceptibly lessened ; and middleman tenures, though still prevalent, diminished remarkably in the more progressive counties. The deep lines of demarcation which kept apart the owners and the occupiers of the soil were thus to a certain extent bridged over ; the Irish landlord, especially if resident, became a kindlier superior than his fathers had been ; the Irish peasant became less a stranger to him.

The evidences of this better order of things became manifest on the face of the country. Agriculture, though still backward, made real progress; the breeds of farming animals greatly improved; the huge breadths of pasturage had a less deserted aspect. The country towns had generally advanced; the land had been opened by good roads; the means of locomotion had been largely multiplied. The rental of Ireland had doubled within living memory; in some counties, indeed, it was nearly as high as it is now; the land was at a price of more years' purchase than it is at the close of the nineteenth century. It was at this period that the great country houses of Ireland were built, and their vast demesnes laid out; the wages of labour were low, but had distinctly risen; the peasant hind, Arthur Young tells us, in point of food and clothing, was as well off as his fellow in England. The land was largely parcelled out into considerable farms; but small holdings were on the increase; and the cottar system, in the course of time to become a source of manifold evils, was not yet a cause of much mischief; the pressure of population on the soil was not severely felt. Many of the great landlords, too, were excellent men; they ruled the country well, and greatly improved their estates; in numberless instances they had won the hearts of dependents, who regarded them as kind masters. Yet the picture was not without a dark side; this land system still had evil, nay, repulsive, features. Except in the best part of Ulster the deep divisions of race and faith continued to be profoundly marked; the Penal Code had made these, to a great extent, indelible. There was still much oppression and exaction in landed relations; the class of small landlords and the class of middlemen were too generally tyrannical and harsh; complaints of over-renting were not infrequent; and if the great landlords, as a rule, were not severe superiors, many were extravagant, addicted to excess, and reckless duellists; they bore a strong resemblance to the seigneurie of the old French

Monarchy. The peasantry, too, remained serfs, illiterate, ignorant, and superstitious; the good feelings they often had for their lords had too much of the submissiveness of the slave; and virtuous as their women ordinarily were, they too generally yielded to the lusts of their masters. The habitations, besides, of this population were still wretched; if their lot had assuredly become better, it was often hard, above all, degraded. They had begun to feel more acutely the ills they suffered; in many counties they had banded themselves together into lawless leagues, to protect themselves and to resist authority. These associations, known by the general name of Whiteboys—perhaps taken from the Camisards of the Cevennes—had as their objects the preservation of rights of commonage, the extinction of tithes, and the reduction of rents; they may be traced back to the great confiscations of the past; they were held together by secret leaders and passwords; and they often kept whole districts in a state of terror. A Draconic Code was directed against them; though often put down they have risen to life again; Ireland has never since been completely free from them; their influence still is distinctly apparent. Associations of somewhat a similar kind, known as Steelboys and Oakboys, were formed even in the good parts of Ulster; but they were much less dangerous and were not permanent. It is a characteristic of Whiteboyism, as it has ever since been called, that it has always had a political side, and lends itself to revolutionary movements against government itself.\*

Though Protestant ascendancy was still supreme at

\* By far the best account of the state of Ireland, at this period, is to be found in the celebrated 'Tour' of Arthur Young, who wrote in 1776-78. See also Mr. Lecky's 'History of England in the Eighteenth Century,' vol. vi. chs. xxiv., xxv.; vol. vii. ch. xxvii. The 'Irlande, Sociale, Politique, et Religieuse' of Gustave de Beaumont may also be consulted; but though a very able work, it is that of a democratic doctrinaire. For the Whiteboy movements, see the Irish Statute Book, and Sir George Lewis on 'Irish Disturbances.'

this period, the confiscations of the past had not been forgotten ; they were treasured in the minds of the descendants of the old Catholic families, and of the population among which they lived. The extinction, too, of the tribal Irish tenures, had, we have seen, been a cause of grievous wrongs ; this was a tradition, also, handed down from father to son, and was still fresh in the remembrance of a whole race. The land system, though to outward seeming secure, nevertheless rested on unstable foundations, as was to appear in the course of time ; another element of disturbance was being formed, which ultimately was to have immense force. Under the modes of land tenure, which prevailed in England, since the system of small holdings had been broken up, the land had generally been laid out in large farms ; partly from this circumstance, and partly owing to custom, the charge of making permanent improvements of the land had almost everywhere devolved on the owner of the soil ; a tenant, who rented a farm, took it, so to speak, equipped with the buildings and other things of the kind that were suitable to it. But in Ireland, partly because small farms were numerous, and partly because the custom had never grown up—the history of the past fully accounts for this—the permanent improvements were very seldom made by the landlord ; the tenant, who held land, had to add, as it were, its plant to it ; he had to do much that gave it any real value. As the inevitable result, the Irish occupier of the soil felt that he had acquired a concurrent right in it ; this, if the improvements were solid and lasting, might almost amount to a partial joint-ownership, at least give him, in equity, a real hold on the land. But a right of this kind was not recognised by the law, founded as this was upon notions of English tenure ; it was liable to be destroyed should the tenant be dispossessed ; and as the tenure of the immense majority of the occupiers of the soil in Ireland was either at will, or for a short term at a high rent, this

right, essentially of a quasi-proprietary kind, was made precarious, and had no legal protection. With the prescience of genius, Burke perceived the evils that might grow out of this state of things, though, as yet, these were not much felt; he saw that it discouraged improvement of almost every kind; especially he saw that the denial of legal sanction to the rights in the land a tenant might have, and the fact that his tenure was short and uncertain, might become a source of grave wrong, and of far-reaching discontent. In a word, he detected an economic vice in the land system of Ireland which, in the long run, was to do great mischief; and curiously enough he indicated the remedies that ought to be applied, and pointed out the true principles of a reform of Irish land tenure. It would have been well had British statesmen adopted these; his simple, just, and statesmanlike plan puts to shame the ill-designed and unsuccessful attempts that have been made to recast the Irish land system of late years, and the false, reckless, and socialistic theories at present current on this important subject.\*

I must pass over even the main events of the history of Ireland, after this period, up to the close of the eighteenth century. The 'Irish interest,' mainly composed of the great landed gentry, and turning to account the American War, compelled the Parliament at Westminster to relax many of the commercial restraints on Ireland, and to concede her a partial free trade; under the guidance of the illustrious Grattan it obtained legislative independence for the Irish Parliament. At the same time the Penal Code was largely repealed; the Irish Catholic was permitted to acquire the ownership of the soil; before long he received the electoral franchise, though he was still excluded from the Irish Houses of Lords and Commons. In these circumstances, Ireland made real material and social progress;

\* See Burke's 'Tracts on the Popery Laws,' vol. ii. pp. 445, 446. Arthur Young, too, often dwells on this subject.

the wealth of the country rapidly increased ; the Protestant and Catholic upper classes began to unite in marriage ; a commercial middle class, if still very weak, grew up. Ireland seemed about to enter a happier era ; yet there were drawbacks to this partial welfare, especially as regards the land system. Middleman tenures were becoming much less frequent ; absenteeism was markedly on the decline ; but partly owing to their contact with the Parliament in College Green, and to the brilliant social life it created in Dublin, the landed gentry became more extravagant than their fathers had been ; they began to raise their rents and to encumber their estates ; over-renting became more common than before ; Whiteboy movements and agrarian disorder prevailed in many districts. Ireland, however, probably would have made a great advance but for the evil passions which the French Revolution engendered in the frame of a society still deeply diseased. I cannot dwell on the unhappy years that followed, leading to the Rebellion of 1798 ; I must confine myself to their influence on the Irish land system. The object of Tone and of the United Irish leaders was to combine Scottish and Presbyterian Ulster, and the great mass of the Irish Catholics, into a league against British rule and for 'Irish freedom ;' unhappily, they were but too successful. They appealed, not in vain, to thousands of farmers and traders in the Northern Province, who had long had solid grounds of discontent, and had been deeply stirred by the Revolution in France ; they laid hold on the elements of disorder and of division of race and faith, abounding in Catholic Ireland, but largely concealed, and called on the peasantry to overthrow their Protestant tyrants, and to strike a decisive blow in 'the cause of Ireland.' Evil incentives were recklessly employed to arouse popular passions ; maps of the old confiscated lands were made ; and active emissaries went through the country, reviving dangerous traditions of the past, and stimulating the worst sentiments of

hatred, greed, and revenge. As the result, sedition ran riot in Ulster; in the Southern Provinces there was a great outburst of Whiteboy crime, and a widespread rising against the payment of rent; and thousands of the occupiers of the soil were swept into the United Irish ranks, scarcely conscious of the perils to which they were exposed. How the movement led to the bloody rebellion of 1798, and how this was put down after a desperate struggle, it is unnecessary to consider here; the consequences in Irish landed relations were most unfortunate. It is untrue that the large majority of the owners of the Irish soil were guilty of the crimes that have been laid to their charge; but they bitterly resented the allusions to the confiscations of a bygone past; they became more estranged from their inferiors than they had been for years.\*

This terrible outbreak shook society in Ireland to its base, revived the old divisions of race and faith which had been disappearing to a considerable extent, and left memories behind which have not been forgotten. Its inevitable result was to lead to the Union, a measure long in the contemplation of British statesmen, and especially of Pitt, and perhaps necessary in the most critical circumstances of the time. I cannot even refer to the events attending this great constitutional change; a large majority of the leading Irish landlords disliked it at heart; but a minority, alarmed for their possessions, gave it support; how strong this feeling was may be seen in a famous speech of Lord Clare, who described the whole order of men as 'the heirs of confiscation hemmed in by enemies brooding on their wrongs.' The Union greatly weakened the influence of the

\* For an account of this period nothing can be compared to Mr. Lecky's '*History of England in the Eighteenth Century*,' vols. vii., viii. These contain all the information that can be obtained, collected from every available source. I may refer to my '*Ireland, 1798-1808*,' chs. i., ii.



Irish landed gentry, which had been very powerful in the defunct Parliament ; the 'Irish interest,' for many years a real force, was almost subverted ; English officials became again supreme at the Castle ; a bureaucracy gradually began to supplant the aristocracy of landlords in every sphere of government. As respects the land and landed relations, the class of Catholic owners slowly augmented ; but the consequences were trivial and not marked ; middle-man tenures continued steadily to disappear ; but absenteeism certainly increased, though absentee estates were usually better managed than before. Meanwhile causes of grave importance, tending to momentous social results, were profoundly affecting the whole land system, and the position of the classes dependent on it. Partly owing to the corn laws of the Irish Parliament, partly to the extension of the Parliamentary franchise, in 1793, to the great mass of the Catholic peasantry, but principally to the effects of the long war with France, Ireland, it may be said, was well-nigh changed from a pastoral to an agricultural country ; large farms were generally replaced by small ; the land in most districts was divided into little tillage holdings ; the cottar system multiplied apace ; the population, about three millions of souls in the day of Arthur Young, increased to more than six millions at the Peace of 1815 ; and this population becoming every year more dense, for the most part eked existence out on a precarious root. The economic and social consequences were very great, and continued in operation during a long series of years. The competition for the possession of land became intensely keen ; rents were unnaturally forced up in thousands of cases ; the value of landed property enormously rose ; all this encouraged extravagance among the landed gentry, and especially induced them largely to encumber their estates. At the same time the wages of labour distinctly declined ; the condition of the Irish labouring peasant, when Edward Wakefield, a very industrious

and able observer, wrote on the state of Ireland in 1812, was markedly worse than it had been in the time of Arthur Young. Yet these were not the most serious, at least, the most lasting, effects of the revolution taking place in landed relations. As the large farm system was being broken up, as the small farm system had come in its stead, and as population had rapidly grown, the occupiers of the soil had more and more made the permanent additions to their holdings; they had built, fenced, and reclaimed land, more and more; and in the general eagerness to obtain the possession of land, considerable sums were often paid for farms on their transfer. The concurrent rights of the tenant classes in Ireland had thus become enormously increased; they often amounted, equitably, to a real joint-ownership; yet these rights were without the support of law, and were liable to be extinguished often at the mere will of the landlord. In Ulster alone, in its Presbyterian and Scottish parts, where the landed classes had been less disunited than in the South, a custom, now of considerable strength, had for a long time made the tenure of the peasant comparatively secure; yet even this was not under the ægis of law.\*

Made wise, after the event, we now clearly perceive what ought to have been done for Ireland in this position of affairs. There never had been an Irish poor law; Protestant property was not to be charged for Catholic want; but the population was fast increasing; a mass of wretched poverty was being formed; this should have been supported, and yet checked, by a poor law. At the same time legislation, as Burke had contended, should have vindicated the moral rights of the occupier of the soil,

\* There is no complete history of Ireland from the Union to the present time, though the materials for such a work are abundant. I may refer to my 'Ireland, 1798-1898,' from the second chapter to the end. An excellent and elaborate description of Ireland from 1800 to 1812 will be found in the volumes of Edward Wakefield.

should have made what really was his property his own, should have rendered his tenure profitable and secure. Nothing of the kind, however, came into the minds of British statesmen, or even, it must be said, of the best Irishmen of the day—the age was one of Toryism harsh and unfeeling; the abuses of the poor law in England were great; it was not contemplated to apply it to Ireland; above all, the equitable claims of the Irish tenant were not understood or deemed worthy of notice; English tenure, utterly unfitted to his true position, was good enough for him. The land system, nevertheless, was not much disturbed while the high prices of the war prevailed; there was a good deal indeed of disorder connected with the land, but society was not deeply affected. And it is only just to observe that the landlords, as a class, did respect the concurrent rights of their tenants in the soil; the conclusive proof is that these could not have grown up had they been generally, or even largely, set at nought. But a great and calamitous change passed over Ireland when the comparative wealth caused by the war collapsed, and when the return to cash payments made the effects worse. Rents suddenly fell greatly, and even disappeared; the wages of labour, which had usually been paid through what may be called a wretched truck system, were reduced to a remarkable degree; hundreds of thousands of the cottar peasantry sank to the lowest depths of indigence. A great social convulsion, in a word, took place; this culminated in famine in several counties; a miserable population was deprived of the means of subsistence. In these circumstances the owners of the soil acted as a class would ordinarily act; many, impoverished themselves, let things drift; many made themselves conspicuous for good works of charity; a minority had recourse to severe measures, like the English landlords of the sixteenth century, to get rid of a mass of poverty clinging in despair to the land.

The old divisions of race and faith unquestionably aggravated this state of things ; but the Government of the day showed little forethought, and, in fact, was infinitely the most to blame ; it met the emergency, not by wise and healing measures, but by legislation, which made the eviction of the peasant from his holding easy and cheap, and by having recourse to repression unjust and severe in the extreme. In too many instances, ' clearances ' of estates, an evil word, were witnessed ; hundreds of families were driven from their homes and cast on the world ; as the necessary result, in numberless cases, the equitable rights of the Irish tenant were ruthlessly destroyed. As a matter of course, Whiteboyism, never completely suppressed, broke out in formidable agrarian disorder ; the peasantry, deprived of the protection of law, leagued themselves together to enforce a law of their own ; crime multiplied to an immense extent ; all the machinery of coercion could not wholly keep it under.\*

I must pass rapidly over the next twenty years, though a very important period in Irish history. Catholic emancipation was wrung by O'Connell, from a reluctant Ministry, through violent agitation, which distracted Ireland for years ; the Irish Catholic was admitted into Parliament at last. This great event was followed by the savage Tithe War, a movement against the Anglican Church in Ireland stained with detestable deeds of blood ; the representation of Ireland passed largely into O'Connell's hands, the head of what was called ' his Catholic Tail.' Protestant ascendancy in Ireland received a mortal blow ; the influence of the Irish landed gentry still further declined ; that of the bureaucracy at the Castle increased. From this time forward the Irish landlord began to feel his

\* The best account of this period—the forerunner of one even more calamitous—will be found in the proceedings of a Parliamentary Committee on the state of Ireland in 1824-25, and in the mass of evidence collected by it. The evidence of O'Connell is full of interest.

position really insecure ; it is remarkable how few large mansions and demesnes have ever since been designed or completed by this order of men. After the disastrous period which came to an end about 1826, the wealth of Ireland perceptibly grew ; a kind of prosperity existed in many parts of the country. The age, too, had become more liberal and humane ; the middleman was got rid of in not a few districts ; the absentee landlords devoted more attention to their estates than they had ever devoted before. The process of eviction, moreover, became much less frequent, though too frequent for social order and peace ; a considerable number of Irish landlords expended large sums in improving their lands ; farms were consolidated, with good results, in many parts of the country. But the essential features of the land system were not much changed ; its economic conditions became, in important respects, worse. The landed gentry, if much less extravagant than their fathers had been, were, nevertheless, as a class, much involved in debt ; and, as usually has been seen in cases of the kind, they became less really prosperous, as their authority declined. Meanwhile, the population had continued rapidly to increase ; by the close of this period it exceeded eight millions of souls, a total far too great for the resources of the land. The phenomena, already critical, became more sinister ; rents were again forced up as the wealth of the country augmented, and reached the highest level they have ever attained ; the wages of labour did not fall, indeed, they could hardly fall lower ; but the cottar population had become more than ever dense ; the competition for the possession of the soil grew fierce ; as necessarily followed, the quasi-proprietary rights of the tenant in his holding had been enlarged, and yet these were still outside the pale of the law. A Report, made in 1837-38, disclosed the appalling fact that two millions and a half of the Irish community were for months in every year on the verge of starvation,

and always in a condition of extreme misery. Though Ireland had made, in a sense, progress, her economic state had thus become dangerous, and very bad; and a poor law, enacted at last in 1838, was utterly unable to cope with the evil. Whiteboy crime and disorders continued to abound; in 1844, an average year, there were more than a thousand instances of offences in landed relations.

The year 1843 was that of the great Repeal movement, of which O'Connell was the master spirit. Peel had been Prime Minister for two years; his attention had been already turned to the vices and the perils of the Irish land system. He had been Chief Secretary for Ireland from 1812 to 1818; but he had been identified with the Tory misrule of that time; and though, like Chesterfield in another age, he had been too sagacious not to see that poverty made the social ills of Ireland more acute and worse, he had been the ablest opponent of the Catholic cause, had supported Protestant ascendancy in many ways; and had not been in any sense an Irish reformer. A strong Conservative of the great middle class in England, he looked on Ireland as an almost foreign land, and had scarcely any knowledge of her real needs; and though his severe administration at the Castle had been wise and just, he carried out coercion with a steady hand, and is supposed to have been the author of the code of cheap ejection, a cause of a great deal of evil and wrong. But his mind, if slow in moving, was moved at last; he saw that Ireland largely required the amending hand; the conduct of O'Connell, no doubt, had quickened his purpose. I cannot dwell on Peel's other Irish measures; at the close of 1843 he appointed a Commission charged to inquire into the state of Irish landed relations; had he continued long at the head of the State, he would probably have done much to improve the Irish land system. The Commission had, as President, the chief of the great House of Courtenay; it was almost wholly composed of Englishmen, more or

less associated with land in England ; it was, therefore, ill constituted to deal with what may be called the Irish Land Question. But it investigated the subject it treated with most praiseworthy care ; entering into every detail of Irish landed relations, their history in the past, the state of land tenure, the condition of the different classes seated on the land, the working of the law with respect to tenant's improvements, the means of diminishing the wretched millions squatting on the soil, agrarian crime and all that it involved ; the mass of evidence it collected is still of the greatest value. The Report it made, if somewhat over-cautious and timid, was very instructive in many respects ; especially it showed how the Irish land system grew out of the conquests and confiscations of the past, and still bore the marks of its ill-omened origin, notably in the lines drawn between the owners and the occupiers of the soil marked by a profound division of race and faith ; and many of the suggestions it made were wise, nay, excellent. But on the capital subject of land tenure, by many degrees the most important, the Report only too clearly revealed the ignorance of Englishmen as regards Ireland, and, above all, as regards her landed relations. The Commission ought to have fully recognised the concurrent rights in the soil, which the Irish occupier had acquired in tens of thousands of instances, rights often equivalent to more or less joint-ownership ; it ought to have insisted that the Tenant Right, as it was now called, of the Ulster Custom, and the claims arising from improvements, the work of the tenant, and from sums paid on the transfer of farms, should be made law-worthy, and effectually secured. With a want of insight which would have made Burke gnash his teeth, it took exactly an opposite course ; it warned the Irish landlord that these concurrent rights were creating against him 'an embryo copyhold,' and eating away his freehold ownership ; it plainly hinted that he would do well to get rid of them. It even refused to

acknowledge that the tenant had a claim to any improvements if made in the past ; but it proposed a scheme for compensating him for improvements made in the future, so limited and fenced round with restrictions, that it was quite illusory, and indeed deceptive. The Report caused intense indignation in Ulster, and was not well received in any part of Ireland.\*

Bills, founded on the Report of the Devon Commission, as it was called, were brought into Parliament, but never became law. Within a few months Ireland was in the throes of an agony, the most terrible, perhaps, that has befallen any land in the nineteenth century. In the autumn of 1845, the potato, which formed the only food of the indigent multitudes fastened on the land, failed, to a considerable extent, in many districts ; in the following year the crop was all but completely destroyed. Famine, far more general and appalling than that of twenty-five years before, had soon held a wretched population in its grasp ; the results may almost be compared to those of the Black Death, and of the famines of the Middle Ages. The land system went to wreck in whole counties, especially in the west and along the seaboard ; hundreds of the landed gentry were involved in ruin ; thousands of farmers of the better class became bankrupt ; the dense cottar multitudes were literally lifted up from the soil, and cast adrift, the waifs and strays of a far-reaching tempest. This is not the place to review the measures adopted to meet the dread visitation ; if not free from errors, inevitable in a situation of the kind, they were, essentially, and, in the main, successful. Peel was still in office in 1845 ; well knowing what poverty in Ireland was, he introduced supplies of food into the remote and backward districts, which the energies of commerce could hardly reach ; this wise policy saved tens of thousands of lives ; as is notorious,

\* I perfectly recollect, though quite a boy, this strong and widespread expression of sentiment.



he repealed the corn laws in the interest of the afflicted country. The Government of Lord John Russell had succeeded him in 1846; it had to confront an emergency infinitely worse; it followed, in many respects, the example of Peel, who had established 'relief works' in many counties; but it did not assist the most impoverished parts of Ireland with food through the agency of the State; this possibly was a real mistake. Nevertheless, it manfully and humanely met the tremendous crisis; it is easy to censure some of its acts, for instance, the wasteful and useless public works it set on foot, and the gigantic outdoor relief it was compelled to lavish; but millions in starvation were thrown on its hands; and the poor law, only lately in operation, could not cope with universal distress. On the whole, the statesmen in power did their duty wisely and well; thousands of unhappy victims succumbed, indeed, to famine, and to dire diseases following in its train; but Ireland as a people was saved; assuredly she could not have saved herself. A word, too, must be said on the magnificent charity which flowed in from many lands into the community in its woe. England had turned in sympathy towards Ireland in the season of distress which had followed the Peace; she bestowed great sums on her, in 1845-46, through private subscription. The United States, France, Germany, and Italy joined in the good work; even the Ottoman Empire was not behindhand.

I must dwell for a moment on the conduct and the position of the classes connected with the land during this appalling trial. The attitude of the landed gentry was much the same as it had been at an infinitely less disastrous crisis; but, on the whole, it was marked by nobler and more attractive features. The charity of the great landlords of Ireland was most praiseworthy; many devoted large sums for the support of the poor on their lands by instituting fine works of enclosure and drainage; some, I know, even mortgaged their estates for this very purpose.

Hundreds of the lesser gentry, stricken down as they were, imitated their superiors as well as they could; old divisions were forgotten in the common misfortune; spite of the interested lies of a calumnious faction, as an order of men they acted extremely well. One of their bitterest enemies, who wrote at the time, has placed it on record, 'that the resident landlords and their families did, in many cases, devote themselves to the task of saving these poor people alive. Many remitted their rents or half their rents; and ladies kept their servants busy and their kitchens smoking with continual preparation of food for the poor.'\* Many, however, of the Irish landlords, as was to be expected, looked hopelessly on at the misery around them; this was the case with feeble and incapable men, and the sight has always been seen in grave social crises; it was but in conformity with our frail and imperfect nature. A certain number, moreover, of the class had recourse to severe measures to remove from their lands the masses of wretchedness crowded upon them; the process of eviction became too frequent; hundreds of families were in this way dispossessed of their holdings. These acts of harshness were certainly to be deplored; but it was almost universally believed that the cottar in Ireland could not live from the land after the failure of almost his only means of subsistence; it must be added that, in this very matter, the conduct of Parliament and the Government was by many degrees more severe. A strict test of destitution had to be applied; a law was passed that, as a condition of obtaining relief, no person possessing more than a quarter of an acre of land should be entitled to support from the State; thousands of families abandoned their homes, through the effects of this measure; for one evicted by a landlord, fifty perhaps were practically evicted

\* Mitchel's 'History of Ireland,' vol. ii. p. 213. Mitchel was a rebel, but an honourable man, superior to the falsehoods disseminated by later agitators against Irish landlords.

by this stern policy. The law was possibly required in the terrible circumstances of the time ; but it was condemned by the Lord-Lieutenant, Lord Bessborough, a great Irish peer, and an able man ; at all events, it justified, to a considerable extent, all that could be laid to the charge of a few Irish landlords whose acts were most unfairly denounced by many writers, and were falsely described as common to the great body of the class. For the rest, as I have said, the land system was broken up in many districts ; and not only the owners but the occupiers of the soil suffered cruelly from the highest to the lowest grade.

After the first months of the famine, the immense exodus of the Irish race, as it has fitly been called, began. The population fled from the country in hundreds of thousands ; some found a home in England and in our Australian colonies ; nine-tenths, probably, in the great Republic of the West. The sufferings of numbers of the emigrants were terribly severe ; huddled together in the ill-found vessels of the time, hundreds perished before they beheld the lands they were seeking ; that some check was not placed on the greed of the merchants, who subjected these victims to horrors like those of the Middle Passage, was certainly the worst mistake of the Government of the day. During the agony of the famine there was comparatively little crime ; the minds of men were engrossed by a dire calamity ; but in a few months Whiteboyism had been again aroused ; there was a widespread outbreak of agrarian disorder followed by the abortive rising of 1848. The time was now ripe, in the judgment of even leading statesmen, for making another of the great experiments on the Irish land, which had been their policy since the age of the Tudors. Many of the Irish landed gentry had been ruined ; the estates of many were heavily charged with debt, in part caused by extravagance in the past, but chiefly by large provisions made for their families in more prosperous times, especially during the period of

the high prices of the war.\* The object of the Government—and Peel concurred—was to make a clean sweep of the embarrassed owners, and to transfer their lands to a new order of men; ‘English and Scottish capital was to be attracted to the Irish soil;’ the Irish landlord was to be ‘sold out cheap;’ his successor was to be a person fit ‘to discharge the duties of property;’ the ‘regeneration of Ireland’ was to be the magnificent result.† The sale of encumbered estates in Ireland had from various causes been a slow and a costly process, an Act was run through Parliament with scarcely an expression of dissent,‡ making the process as rapid and inexpensive as the wit of man could devise; a Commission was appointed to carry the law into effect; and intending purchasers were to be given an indefeasible title to any lands they might acquire. This was a strong measure, but it was not nearly all; the concurrent rights of the tenants in the estates to be sold were absolutely ignored, and left without protection; the new possessors were empowered to destroy them if they pleased. The results were such as might have been looked for when lands were forced into the market wholesale, when Ireland was still reeling from the strokes of a terrible famine, and agricultural ruin was seen everywhere. The Commission acted as such tribunals invariably act when skilfully selected to carry out a policy; it addressed itself to its task of ‘selling land cheap;’ it was egged on by the Lord-Lieutenant of the day; and it sacrificed estates, in scores of instances, at less than half their value. This iniquitous proceeding went on for years, until the market for land in Ireland righted itself at last; but the Encumbered

\* Every one acquainted with the history of Irish titles, from about 1790 to 1820, knows that this was the case.

† ‘Clarendon,’ wrote Greville, ‘told me he expected the Encumbered Estates Act would prove the regeneration of Ireland.’

‡ That great lawyer, Lord St. Leonards, protested. He had been Lord Chancellor of Ireland.

Estates Act was often renewed ; about a sixth part of the lands of Ireland has been transferred by these means. As the result many of the Irish gentry, who might have tided over the crisis, were beggared and cast on the world penniless ; and confiscation from above had its counterpart in confiscation from below ; the partial joint-ownership of thousands of the occupiers of the soil was ruthlessly annihilated in numbers of cases. And what were the consequences of this scheme of spoliation and wrong, which English politicians would never have thought of but for their traditional contempt of the rights of property in land in Ireland ? English and Scottish capital, indeed, reached the Irish soil ; but it reached it in the form of large mortgages, a heavy drain on the country's resources ; the English and Scottish purchasers of the Irish land were a mere handful of men. The estates, in fact, transferred under the Encumbered Estates Acts, as a rule, passed into the ownership of jobbers, speculators, and mortgagees, people without the associations old possession ensures ; they have formed, as a class, harsh and exacting landlords, the true successors of the almost defunct middleman ; they are responsible for much that is bad in Irish landed relations of late years. A huge confiscation, in a word, failed, as those of Elizabeth and Cromwell failed before ; the fact ought to be a warning to public men, who have been parading theories about the Irish land—strewn as this has been with monuments of misdeeds and errors—as false and more dangerous than those which produced the Encumbered Estates Acts.\*

The exodus had, by 1851, reduced the population of Ireland by nearly two millions of souls ; this decline has continued ever since ; the population which, in 1846, was

\* For the state of Ireland during the Famine and the years that followed, see 'The Irish Crisis,' by Sir Charles Trevelyan, reprinted from the *Edinburgh Review* ; and the 'Letters' of Mr. Campbell Foster, the Commissioner of the *Times*. Valuable information will also be found in the Greville 'Memoirs,' vols. v., vi. I may refer to my 'Ireland, 1798-1898,' chs. v. and part of vi.

considerably more than eight millions, is now, we have seen, only about four and a half millions. In 1852 an agitation sprang up, which might have wrought a great change in Irish landed relations, had it not been brought by mere accident to an untimely end. The Report of the Devon Commission, I have said, had troubled Ulster; the Famine had driven peasants, in tens of thousands, from their homes; the operation of the Encumbered Estates Act was destroying their concurrent rights in their holdings. At the General Election of 1852 Ireland returned a large party of representatives to the House of Commons pledged to vindicate the claims of the tenant farmers; these were expressed in a demand that has been called the 'Three F's,' 'Fair Rent,' 'Fixity of Tenure,' and 'Free Sale,' a mode of occupation which had been largely secured by the Custom of Ulster, and to which O'Connell had given his sanction. The Government of Lord Derby was now in office; it had brought in measures which, in some degree, would have legalised the rights of the Irish tenant; but the Ministry was defeated, partly through an intrigue; \* the cause of the Irish farmer was baffled and kept in suspense for years, largely owing to dissensions and treachery on the part of some of the Irish members. By this time the country had begun to revive, and to throw off the worst effects of the Famine; vast depopulated tracts had been opened to new husbandry; the land had been set free, over an immense area, from the incubus of a mass of wretchedness which had preyed on it, and had completely disorganised the land system, unnaturally forcing up rent and cutting down wages. Under these conditions the statesmen in power, already expecting great things from the Encumbered Estates Act, believed that the Irish land system would right itself, and that it was unnecessary to consider or to protect the rights of the tenant

\* For an account of these machinations of party, see Greville, 'Memoirs,' vol. vii. p. 33.

classes ; these would either disappear, or would be fairly adjusted in the improved landed relations that were being formed. At all events, there was no legislation to secure these claims ; the scanty legislation, that dealt with the Irish land, was unfavourable, in many ways, to these, and endeavoured to assimilate Irish to English tenures, as Tudor lawyers had done three centuries before ; and Lord Palmerston, for a long time the head of the State, discouraged Irish tenant right, in more than one speech, and declared that it only meant landlord wrong, unwise utterances that showed he did not understand the subject. At the same time, the policy of clearing the land for cultivators of a capitalist class, able to occupy and do justice to large farms, was generally advocated in high places ; more than one Lord-Lieutenant announced that nature had made Ireland a great grazing tract, and that her petty occupiers were little better than a social nuisance.\*

For some time it seemed as though the forecasts made by the great majority of our statesmen would prove correct. The immense emigration from Ireland to the United States had important results, unfortunate in many respects ; but the uplifting of redundant millions from the soil greatly contributed to the country's welfare. Holdings were consolidated over very large areas, a beneficent process, if humanely carried out ; a certain number of Englishmen and Scotsmen rented large farms ; the progress of husbandry of all kinds was distinct ; a vast field for agriculture, really worthy of the name, was opened. A new standard for the management of land was, in fact, set up ; at the same time a few purchasers, under the Encumbered Estates Acts, laid out considerable sums in improving their estates ; the Treasury made large advances to many Irish landlords ; these did much in works of enclosure, draining, planting, and the like. Ireland

\* I heard several of these most injudicious and ill-informed expressions of a false opinion.

began to wear a new aspect in several counties, especially in the more thriving parts of the southern provinces ; the ruins made by the Famine, indeed, caused hideous eyesores, in wrecks of villages and the remains of peasant dwellings ; but the mud hovels of the cottar population had largely disappeared, and the habitations of farmers of the better class very markedly improved. The economic conditions of landed relations became more conducive to prosperity than they had ever been before ; rents fell considerably during a series of years, as the intense competition for land diminished ; though they gradually rose in the course of time, they never reached the excessive rates of 1840-45 ; and the wages of labour greatly increased, and attained a level that, happily, has since been preserved. Many circumstances concurred to quicken and augment this unquestionable social and material progress. Agricultural prices were high from about 1852 onward ; Free Trade was as yet adding to the wealth of Ireland ; and there was a long succession of good harvests, the most important element in her general welfare. The railway system, too, introduced of late years, opened a number of new markets to her products, and greatly facilitated their access to British markets. At the same time the turnip replaced the potato over hundreds of thousands of acres ; farm machinery greatly improved in Ireland ; the importation of the best stock from England and Scotland had excellent results, and almost transformed the old breeds of Irish farming animals. An era of prosperity, in a word, had seemed to dawn on Ireland ; and though agrarian disorder had not disappeared, the Whiteboy secret societies were greatly broken up, and political agitation well-nigh ceased.

In these circumstances, it was a common belief in England that 'the Irish difficulty,' as it was called, was passing away, and that the 'Hibernia Pacata' had at last become a happy reality. Yet the progress and tranquillity of this brief period were largely superficial and even



deceptive ; fires were still alive beneath the smouldering ashes. The partial prosperity of Ireland mainly depended on good harvests and high prices ; it was interrupted, even in these years, by two or three seasons of distress. Notwithstanding the widespread consolidation of farms, and the removal from the soil of indigent millions, the land still, for the most part, remained in the possession of a mere peasantry ; very few of the English and Scottish capitalist farmers settled in Ireland, and really thrived ; the great majority left the country, like the 'Englishry' of a bygone age. And though things wore a serene aspect, the inherent vices of the land system continued to exist ; in some respects they increased, or were more painfully felt. The old divisions of race and faith between the owners and the occupiers of the soil remained ; they had but little changed and even had perhaps widened ; much had happened to keep the landed classes more apart than before. The new purchasers, under the Encumbered Estates Acts, were, we have seen, often hard-fisted and grasping landlords ; they raised their rents, without scruple, in too many instances ; standing on the letter of the law, they too often ignored the partial joint-ownership in their farms of their tenants ; they had sometimes recourse to unjust and severe evictions. The old landlords, too, never recovered from the effects of the Famine ; they were overshadowed by the bureaucracy of the Castle, which, for many years, had been growing in power ; they thus became an order of men with privileges, but without authority, in the midst of inferiors, who had little sympathy with them, a dangerous position like that of the French seigneurie in the later years of the eighteenth century—a position described by Tocqueville in very striking language. At the same time the peasantry stood aloof from them more than in the days of their fathers ; and though they remained quiescent for years, as has often happened in Irish history, there were causes for this increasing estrangement. They

were no longer the grossly ignorant multitude of fifty years before ; education had made some way among them, though in this respect they were still backward ; they felt more acutely all that was hard in their lot, like the French peasantry before the great Revolution of 1789-94. This sentiment, however, owed its principal force to sentiments engendered in far distant lands. The thousands of the exodus had left their country with memories embittered against some Irish landlords, and, notably, against the British Government ; a new Ireland was rising across the Atlantic ; the emigrants and their sons were in constant communication with the old Ireland once their home ; socialistic ideas as regards the land, blending with dislike of the superiors and the rulers, under whom they lived, were gradually diffused among the Irish peasantry. The economic conditions, too, of landed relations by degrees made these feelings more general and intense. Rents were rising as the wealth of the country increased, though, except in the cases of the new landlords, and of a very few surviving middlemen, they were, as a rule, by no means excessive. Simultaneously a concurrence of causes had extinguished leasehold tenures in most parts of Ireland, and had reduced the status of the Irish farmer to that of a mere tenant at will, liable to be dispossessed by a notice to quit, at the mercy, in fact, of the lord of the soil. And, meanwhile, the equitable rights of the occupiers as a class, due to improvements, and to sums paid for the goodwill of farms, had been increasing to an immense extent ; and yet a grievous wrong—they were not even recognised by law. Law and fact had long been sharply clashing in landed relations ; there was much that was essentially bad in the land system ; and agrarian trouble and crime was on the increase.

The mind of England had turned away from Ireland after the petty outbreak of 1848 ; it charged the Irish community with ungrateful folly, as it recollected the

charity lavished during the Famine. This sentiment was replaced by what was worse, indifference ; throughout this period—from 1850 to 1868—Parliament gave little attention to the affairs of Ireland. British statesmen continued to pin their faith to their policy ; they disregarded ominous symptoms on the increase ; Ireland was rapidly becoming more prosperous ; the claims of the Irish tenant farmer were a delusion, or worse. This apathy was augmented by the state of the representation of Ireland in these years ; this was in a feeble, even a degraded condition ; and largely owing to the authority of Cardinal Cullen, who prohibited the Irish priesthood from taking any part in politics, agitation, I have said, had become a mere tradition of the past. Yet the causes I have glanced at were silently at work, which ultimately were to lead to grave social troubles. The first sign of disturbance was seen in a little outbreak, the result of a conspiracy hatched by one of the rebels of 1848, and supported to some extent from America ; but the 'Phoenix plot,' as it was called, almost at once collapsed ; the Government thought it hardly worthy of notice. Another and much more formidable conspiracy was matured in 1864-65 ; and though it was put down with little difficulty in time, it showed that there was much that was peccant in the state of Ireland ; and it deeply affected the minds of Englishmen, aroused as it were out of a fool's paradise. The millions of the Irish race in the Far West were passionately appealed to by leaders, not without parts, to assist in a crusade against 'landlordism,' and British rule in Ireland ; they gave the movement very general support ; they found numerous allies in thousands of Irishmen disbanded after the great conflict between the North and the South. The Fenian conspiracy was launched on its course ; its directors made skilful attempts to debauch whole regiments, and to stir up the passions of the mob in many of the towns of Ireland ; and they especially turned their attention to the mass of the peasantry. Here,

however, their policy was injudicious and ill-conceived ; they promised the Irish land as a spoil to those who would join the ranks of the 'patriot Irish army ;' but all this alarmed the occupiers of the soil, whose only object was to acquire a better mode of tenure for their farms, and who rightly thought the Fenian movement made their possessions insecure, a belief generally encouraged by the Catholic priesthood. A short-lived rising, conducted by a few American soldiers, and backed by the rabble of a few villages and towns, found no real support in Ireland, and was finally quelled in 1867 ; but in England there was a spurt of Fenian disorder, and this, though easily quenched, made a profound impression. It was generally felt in England and Scotland that, notwithstanding the optimism of a generation of public men, there was still much that was rotten in the state of Ireland, and that this should be removed by large and searching reforms. The chief sign of this change in British opinion was seen in the result of the General Election of 1868 ; Mr. Gladstone, who, hitherto, had taken comparatively little part in Irish affairs, but who, with his keen instinct of every turn in the public mind, had been vehemently enlarging on the wrongs of Ireland, was placed in power with a great majority, and at once addressed himself to the task of Irish reform.\*

\* For the state of Ireland from the end of the Famine to 1868, reference may be made to 'Two Centuries of Irish History,' edited by Mr. Bryce ; to the Greville 'Memoirs,' vols. vii. and viii. ; to Greville's 'Policy of England towards Ireland ;' to the 'Recollections and Suggestions of Earl Russell ;' to parts of the 'Life of Lord Palmerston ;' to 'Journals, Conversations, and Essays relating to Ireland,' by Nassau Senior ; to the 'Young Ireland,' the 'Four Years of Irish History,' and 'The League of the North and South,' by Sir C. G. Duffy ; to the 'New Ireland' of Mr. A. M. Sullivan ; and to the 'Parnell Movement' of Mr. T. P. O'Connor. Valuable information as to this period will also be found in Mr. Barry O'Brien's works, 'Fifty Years of Concessions to Ireland' and 'Irish Wrongs and English Remedies ;' and there are many other authorities. This period is dealt with in my 'Ireland, 1798-1898,' ch. vi.

## CHAPTER IV

THE QUESTION OF THE IRISH LAND (*continued*)—THE IRISH LAND ACT OF 1870—THE LAND LEAGUE AND THE NATIONAL LEAGUE—THE LAND ACT OF 1881—SUBSEQUENT LEGISLATION AS REGARDS THE LAND SYSTEM OF IRELAND

State of landed relations in Ireland in 1869-70—Mr. Gladstone Prime Minister—The Land Act of 1870—Its merits and defects—A short period of prosperity in Ireland—Ominous symptoms—Michael Davitt—The teaching of John Finton Lalor in 1848—The 'New Departure' in Fenianism arranged in America—Foundation of the Land League—It was a foreign rebellious conspiracy, with an agrarian side, under a constitutional mask—Parnell the master spirit of the League—His visit to America and the results—A short period of distress in Ireland—Conduct of the Irish landlords—Progress of the Land League—Mr. Gladstone again Prime Minister in 1880—The Compensation for Disturbance Bill rejected by the House of Lords—Outburst of agrarian crime, as the Land League increases in power—Rents at Griffith's valuation—Boycotting—Frightful state of Ireland in 1881—After a short attempt to repress it, Mr. Gladstone surrenders to the Land League—The Land Act of 1881—Mr. Gladstone breaks the pledges he had made in 1870—His promise of compensating the Irish landlords—The Land Act of 1881 a bad and unjust measure directly inconsistent with that of 1870—The 'No Rent Manifesto'—The Kilmainham Treaty—The Phoenix Park tragedy—Coercion—Parnell founds the National League, the successor of the Land League—Renewal of agitation in 1886—Struggle with law and the Government—Subsequent agrarian legislation for Ireland—This is really a concession to agitation, for the benefit of Irish tenants, and to the injury of Irish landlords.

MR. GLADSTONE, after his conversion to Home Rule, more than once declared that, almost from early manhood

he had given special attention to Ireland; either his memory was at fault, or he had kept the fact to himself. He had been a conspicuous figure in politics, for many years before 1868; but until he had been placed at the helm of the State, he had shown little acquaintance with Irish questions, and, indeed, had expressed few opinions on them. In 1866 he had said in the House of Commons, that the existence of the Anglican Irish Church would be probably long; he had been in high office almost since 1853, and, as a colleague of Lord Palmerston, had acquiesced in the philippics of that statesman against Irish tenant right, conduct that revealed ignorance of the land system of Ireland. But, in 1868, when the Fenian outbreak had caused the nation to demand large reforms in Ireland, he suddenly abandoned his attitude of reserve; he threw himself into Irish affairs; his zeal, it may be remarked, as often happened, fell in with his interests, and with those of the Liberal party, and gave him a leverage to drive Disraeli from office. During months before the General Election that ensued, the orator thundered on Irish grievances, and on the manifold ills of Ireland; in figurative and impassioned language, he said that the island was blighted by a huge upas tree, the Church, the land, and education being the three main branches. These harangues, addressed to the new democracy, contributed powerfully to the fall of the Conservative Ministry; it was little noticed, at the time, that one of the results was ere long to compel Mr. Gladstone himself to subject Ireland to severe repressive measures, for Whiteboy and agrarian outrages became frequent. In 1869, the Minister addressed himself to the task of hewing down the first branch of the poisonous upas; he disestablished and disendowed the Protestant Church of Ireland. This is not the place to comment upon that great measure; it was well designed upon its professed principles; it dealt liberally, nay, generously, with the voluntary Church, which replaced

the Church of the State it overthrew. But essentially it was a scheme of destruction, formed in Nonconformist not in Irish interests, and opposed to the views of generations of statesmen ; it made no provision for the clergy of the Irish Catholic Church, a policy which Pitt, Castlereagh, and Lord John Russell had had at heart, which had been all but a condition of the Union, and which, if carried into effect, would have done much to strengthen and maintain that fundamental law, and to promote tranquillity in Ireland and her general welfare.

Mr. Gladstone now turned to the second branch of the upas, the land system of Ireland and her landed relations. His whole career, especially in its Home Rule phase, proves that his knowledge of Ireland was not exact or profound ; at this time he had had little experience of the Irish land question. But the mind of England was still attracted to Irish affairs ; a number of distinguished Englishmen and Scotchmen went to Ireland, to investigate the state of the country on the spot ; the British Press sent some of its best contributors ; the time was singularly opportune for a fair and complete inquiry ; no Minister has had, before or since, such assistance in dealing with Irish problems. I must glance at the state of the Irish land system in 1869-70, as this was fully explored and made manifest.\*

\* From the mass of literature on this subject reference may especially be made to 'The Irish Land,' by the late Sir George Campbell ; Judge Longfield's essay in 'Systems of Land Tenure ;' the 'Irish Land and the Irish People,' by Butt ; and the 'Ireland, Industrial, Political, and Social,' of the late Mr. J. N. Murphy. As Special Commissioner of the *Times*, I went into the Irish land question at length on the spot ; and it would be affectation to deny that my letters, since republished, powerfully contributed to the legislation which ere long followed. See, for further information, 'The Irish Land Question' of John Stuart Mill ; 'Emigration and the Tenure of Irish Land,' by Lord Dufferin ; 'The New Ireland' of the late Mr. A. M. Sullivan ; parts of Mr. Barry O'Brien's 'Fifty Years of Concessions to Ireland ;' 'Ireland in 1868,' by the late Mr. G. Fitzgibbon, a Master of the

The material progress being made, since about 1854, had been largely developed in by far the greatest part of the island. The population was being still diminished by emigration and other causes ; the area for real husbandry had been greatly extended ; the rural community, at least in its lower grades, was infinitely better off than it had been before the Famine. The look of the country, in most places, bore witness to a change beneficent in the main ; it had been almost transformed since 1844-45. The cottar system, no doubt, was to be found in backward counties ; but even in these it had been largely effaced ; it was all but passing away in the more thriving counties ; masses of indigence were to be seen only in tracts west of the Shannon ; and these were aggregated on an area comparatively small. The general consolidation of farms had, meanwhile, gone on ; and though Ireland remained, on the whole, a land of small farms, her land system had, from top to bottom, ceased to depend for its support on a perishable root. In every conceivable respect a marked improvement was visible in the state of the peasantry ; they were by many degrees better clothed and fed than their fathers had been ; the wages of agricultural labour were still rising, and were now paid in money, and not in plots of potatoes ; and though the habitations of this whole class were, as a rule, still mean, the dwellings of the class of substantial farmers had shown signs of distinct social progress. At the same time agriculture had made a marked advance, owing to the influences I have referred to before ; fine specimens of extensive farming were very commonly to be seen ; thousands of acres had been reclaimed and enclosed of late years ; at no period certainly had the landed gentry, in a great measure through moneys borrowed from the State, expended such large sums in improving their estates, especially in arterial drainage, and Court of Chancery in Ireland ; and Mr. Lecky's '*Democracy and Liberty*,' vol. i. ch. ii.



the introduction of the best breeds of stock of all kinds. The wealth of Ireland, too, was increasing, if not rapidly ; and a change for the better might be traced in what we may describe as her general social life. Her middle class was still weak and small compared to that of England and Scotland ; but it had been growing in wealth and power ; and this, to some extent, had had a good effect on a community still mainly dependent on the land.

The material and even the social progress of Ireland, since the Famine, had thus been marked ; it had been more decided than it has been, at any period, except, possibly, that from 1782 to 1800. Her land system, too, had become better in important parts ; but in many respects it remained vicious ; some of its vices had been aggravated, or were more sensibly felt. The hope that the land would pass generally into the hands of large farmers, able to develop its resources, had not been realised, or had been realised only to a relatively trivial extent ; it was still held in the main by a peasantry of small occupiers of the soil, though the consolidation of farms had gone on over extensive areas, especially over wide tracts of pasturage, in the eastern, midland, and western counties, and this, in some instances, through a process of harsh eviction. The profound divisions of race and faith, the distinctive feature in the organic structure of the whole community, were at least as visible as ever in the land system ; from causes I have pointed out before, they had, not improbably, been widened ; this tended to increase the old dissension in landed relations, and the long-standing separation between the landed classes. Middleman tenures, with their mischievous effects, had, since the Famine, well-nigh disappeared ; but the new landlord had largely replaced the middleman ; absenteeism remained what it had been ; and though absentee estates, as a rule, were under good agents, there was too much of that 'absenteeism of the heart,' condemned by Tocqueville

as a grave social danger. The purchasers under the Encumbered Estates Acts, with some honourable exceptions, no doubt, were too often oppressive landlords; the old landlords, as a class, had, certainly, done much for their estates, but they had lost their political and largely their social influence; partly owing to apprehensions as regards tenant right, partly to the assurances of statesmen that their position was safe, they had become perhaps more exacting in their dealings with their dependents; in the existing situation, they more and more resembled a weak caste, controlled by the central Government, and isolated amidst a community, to a great extent, not friendly. All this tended to produce a want of stability and insecurity in the land system, which was ominous of social strife and trouble; but the most active element of disturbance was to be certainly found in the contact with the rebellious movement which Ireland had lately witnessed. Fenianism had been scotched, but by no means slain; and though the peasantry had held aloof from it, Fenian emissaries were going through the country, appealing to the passions and the greed of the occupiers of the soil, for different reasons not contented with their lot, hostile, in a great degree, to the order of things around them, and more alive to their grievances than in the past generation; at this very time a cry against the payment of rent, and against 'landlordism,' as it was called, was being heard in a few counties. It was significant that agrarian crimes—some of the worst type—and agrarian disorder were distinctly increasing; and it should be added, that, in spite of Cardinal Cullen, the younger Catholic priests, in some districts, were beginning to play the part of agitators again.

Passing from the general state of landed relations, the conditions of land tenure, briefly noticed before, had not improved of late years, and were, in some respects, worse. Rents had been rising for a considerable time:

but except in comparatively few instances, they were not excessive, as affairs stood ; whatever mendacious calumny has since maintained, Ireland, on the whole, was in no sense an over-rented land.\* But the modes of occupation were essentially bad ; they were open to the gravest objections ; their vices had become more than ever apparent. The tenant right, under the Ulster custom, had, I have remarked, largely secured the tenant farmer, in parts of the province, what was generally known as the 'Three F's,' Fair Rent, Fixity of Tenure, the power of

\* This fact has been established by conclusive and impartial evidence, which hardly admits of question. It should be steadily kept in the reader's mind ; for an idea, largely countenanced by iniquitous legislation badly administered, has prevailed of late years, that rack-renting in Ireland was common, nay, general. Exactly the contrary has been the case during the last half century. Butt, in his 'The Irish People and the Irish Land,' published in 1867, hardly alludes to over-renting ; he properly dwells on the insecurity of Irish land tenure. Master Fitzgibbon, a great authority on the subject, in his 'Ireland in 1868,' p. 268, pointedly remarked, '452 estates are under my jurisdiction, in the Court of Chancery, the rents of which amount to £330,809, paid by 18,287 tenants. I have been now nearly eight years in office, during which time the rents have been paid without murmuring or complaint worth noticing. . . . It is well known that my ears are open to any just complaint from any tenant.' The testimony of Judge Longfield, another great authority, is nearly to the same effect. In 'Systems of Land Tenure,' published in 1870, he wrote thus (p. 21) : 'This complaint of high rents has been made without ceasing for more than three hundred years. There was never less ground for it than at the present day, although in some instances the rent demanded is still too high ; but this chiefly occurs where the landlords are middlemen, or where the property is very small.' These views are fully confirmed by evidence of a later period, to which I shall refer. I may add that, in 1869, I examined the rentals of many scores of Irish estates, and was convinced that over-renting was very rare. See my 'Letters on the Land Question of Ireland,' republished from the *Times*, *passim*. I quote a single instance, from many to the same purpose (p. 221) : 'It may be asserted, too, without fear of contradiction, that if in some districts rents are too high, they are not so as a general rule.' I have managed an Irish estate for upwards of fifty years, and have some claim to be an agricultural expert.

a Free Sale of the holding ; \* though it should be especially borne in mind that the fair rent was never adjusted by an external agency, but was settled by what Adam Smith would have called 'higgling' between the owner and occupier of the soil. The custom, however, had been very powerful ; its violation, on anything like a great scale, would have certainly caused a fierce war of classes ; and it gave the Ulster tenant, in tens of thousands of cases, a real proprietary right in the land, whatever might be the terms of his contract ; a right equivalent to more or less joint-ownership, and that might be described as a precious *peculium*, subject to conditions that long had made it practically secure. But this most important right, involving property worth many millions, still remained wholly unprotected by law ; and though its value had enormously increased, as the wealth of Ulster had been developed, of late years, it was being 'nibbled away' on not a few estates, and restricted by limitations of many kinds that had greatly impaired it. An analogous right,

\* For the characteristics of the Ulster tenant right, see Butt's 'Landlord and Tenant Act, 1870,' ch. xv. pp. 296-310. As to the legal authorities on the subject, reference may be made to the learned treatise of Messrs. Cherry and Wakley, 'The Irish Land Law and Land Purchase Acts,' pp. 150-152. A popular account of the Ulster custom will be found in my 'Letters on the Land Question of Ireland,' pp. 242-247, and a more technical account in a legal treatise from my pen on the Land Act of 1870, pp. 30-56. The best definition I have seen of the right is one made by the late P. J. Blake, Q.C., C.C.J. of a northern county, 'Cherry and Wakley,' p. 150 : 'The right or custom in general of yearly tenants, or those deriving through them, to continue in undisturbed possession so long as they act properly as tenants and pay their rents. The correlative right of the landlord periodically to raise the rent, so as to give him a just, fair, and full participation in the increased value of the land, but not so as to extinguish the tenant's interest by paying a rack rent. The usage or custom of the yearly tenants to sell their interest, if they do not wish to continue in possession, or if they become unable to pay the rent. The correlative right of the landlord to be consulted, and to exercise a potential voice in the approval or disapproval of the proposed assignee.'

like seed scattered by the winds, had partially spread into the southern provinces, as the natural result of the equitable claims, the occupiers of farms had repeatedly acquired, though this had not been recognised on many estates, and its efficacy was not as yet great; but this right, such as it was, like its fellow, was not law-worthy, and depended wholly on the will of the lord of the soil. In addition to the tenant right in the north and the south, the concurrent claims of the tenant farmers, throughout the country, in respect of improvements and of sums paid on the transfer of farms, for 'good-will,' had been greatly increasing of late years, especially as prosperity was advancing; and yet tenures had continued to become more precarious; leaseholds were being almost everywhere replaced by tenancies at will. These claims were never so extensive before; often equivalent to joint-ownership, in no doubtful sense, and, in almost all cases, of some value, they were, nevertheless, still outside the ægis of the law, a fact that must ever be borne in mind; they could be destroyed or greatly reduced by the raising of rent, they could be annihilated by a notice to quit, if eviction followed. Unquestionably in the great mass of instances, these rights, whatever their nature, were not invaded; but they certainly had been in a certain number; a single case of invasion created alarm and distrust, and had a bad effect on landed relations; throw a stone into a pond, and it makes a ripple; it has a disturbing influence far beyond the surface it strikes. No wonder, then, that complaints of these modes of tenure had become very general, and were loudly expressed, not only by those who might suffer from them, but by intelligent minds which had mastered the subject. It was an exaggeration to assert, as was said at the time, that the peasant in Ireland lived under a sword of Damocles; but he lived under a system in which law and right were very plainly opposed.

Only a revolution, which Parliament would not have sanctioned, could have effaced the inveterate ills of the Irish land system, running up to the conquests and the confiscations of the past, and the divisions of race and faith in the Irish land; the remark is as true now as it was thirty years ago; and a revolution of the kind, I am firmly convinced, would, even under the best conditions, make infinitely worse whatever was already bad. But it was possible for legislation to remove or mitigate the essential vices in the modes of Irish land tenure; Mr. Gladstone rightly confined himself to this object. He brought in his first Irish Land Bill in the early spring of 1870; he had to address a House of Commons not much in sympathy with a project of the kind. Many of the members were ignorant of the subject; many thought English land tenure perfect, and could not understand why it would not do for Ireland, a prejudice at least three centuries old; some believed Irish tenant right to be a violation of Free Trade, then in the ascendant in every phase of commerce. The Minister's speech was adapted to those who heard it; it was tentative, moderate, not striking; he drew, indeed, very plain distinctions between British and Irish land tenure, and showed how the first could be no rule of right for the second; but if he enlarged on the just claims of the occupier of the Irish soil, he did not venture to maintain, what he probably felt, that these were often equivalent to a joint-ownership more or less developed. He was, in short, dexterous, but not profound; very inferior to Burke, who, a century before, had grasped the essential facts in this province, though the question was still in the remote future. The most important parts of Mr. Gladstone's speech, and indeed, of those of his leading followers, regard being had to events by no means distant, were those in which he repudiated, with no doubtful censure, the whole theory of the 'Three F's,' the extreme demand, at this time, of the tenant class

in Ireland. 'Fair Rent,' he argued, especially if adjusted by the State, deprives a landlord of his first proprietary right, and involves his expropriation in the long run; 'Fixity of Tenure' means a perpetuity for the tenant, to which he has no just claim, and involves confiscation hardly disguised; 'Free Sale' was but a corollary to legislation on these principles.\* At the same time, Mr. Gladstone protested, with marked emphasis, that the Bill he was introducing was to be absolutely a final measure; it was to effect a permanent settlement of the Irish land; Irish landlords would have nothing more to apprehend, *Irish tenants to expect. In this instance, as in that of Home Rule, the orator was to belie himself, and to be a curious example of the irony of Fate; within a few years he was to legislate on the lines he had denounced as dangerous and false; to carry into effect a scheme for dealing with the Irish land, infinitely worse than that of the 'Three F's'; to scatter the 'finality,' to which he had pledged his word, to the winds.*

The Bill thus launched was a comprehensive and wise measure, if not free from real, even grave, defects; it remains the only statesmanlike scheme for the settlement

\* I quote a few passages from the speeches of Mr. Gladstone, and others, on this subject. Mr. Gladstone said, March 11, 1870, 'If you value rents you may as well, for every available purpose, adopt perpetuity of tenure at once. It is perpetuity of tenure only in a certain disguise. . . . The man who becomes a mere annuitant loses all general interest in the prosperity of the land.' And again, February 15, 1870: "Perpetuity of tenure on the part of the occupier is virtually expropriation of the landlord. . . . The mere readjustment of rent can by no means dispose of all contingencies the future may produce in his favour.' Sir Roundell Palmer, afterwards Lord Selborne, said, March 10, 1870, 'Fixity of tenure, in plain English, means taking away the property of one man and giving it to another.' So Lord Granville, June 14, 1870, said in the House of Lords, 'They might have introduced a Bill—which they were determined not to do—adopting fixity of tenure, taking away his property from the landlord, and establishing a valuation rent.' Passages of this kind, at least as strong, might be multiplied a hundred-fold.

of Irish landed relations that hitherto has received the assent of Parliament.\* It made the tenant right of Ulster, in its various forms, as these existed in different estates, law-worthy, and protected to the fullest extent ; it gave the same sanction to the inchoate tenant right of the southern provinces. This was, in itself, an immense reform ; but the Bill properly had a far wider sweep ; it extended, with the exception of certain kinds of lands, such as demesnes, town parks, holdings of a residential type, and, in most cases, large pastoral holdings, to nearly all the occupiers of the Irish soil ; even the excepted lands were partially within its scope. The first great object of the measure was to secure to the Irish tenant the rights he had acquired to improvements he may have made on his farm, a right hitherto not within the pale of the law ; its provisions, in this respect, were, I think, excellent. With a true perception of the unquestionable fact that, though the Irish landlords, especially of late years, had expended considerable sums on their estates, still, as is inevitable under the small-farm system, the Irish tenant, as a general rule, had made the greatest part of the additions to the land, Mr. Gladstone provided that, subject to limitations by no means severe, in order that the law should not run wild, improvements made on farms, in the absence of proof to the contrary, should be deemed to be the tenant's property, thus reversing the presumption of English law, iniquitous when applied to Irish tenures, that what is annexed to the soil belongs to the owner, and not to its occupant. The ground being, so to speak, cleared,

\* It is impossible, in a sketch like this, to describe in detail the agrarian legislation for Ireland, which Parliament has enacted from 1870 to this time. The work of Butt referred to before is an admirable commentary on the Bill of 1870, which soon became law. A brief account of all this legislation will be found in Mr. Lecky's 'Democracy and Liberty,' vol. i. ch. ii. The legal treatises of Messrs. Cherry and Wakley, pp. 149-448, and of Mr. Justice Barton, are elaborate and complete.



the Bill declared that, in almost all cases, a tenant should have a right, when leaving his farm, even though dispossessed for the failure to pay his rent, to claim compensation, from his landlord, for his improvements; and facilities were offered to landlords to discharge these claims through loans from the State. In order, however, reasonably to secure right being done, in a complex and very difficult matter, the Bill proceeded to define improvements, and to impose restrictions on claims, to which objection could fairly be made. Apart from unexhausted tillages and manures, an improvement was to be a work 'suitable to a holding, and adding to its letting value,' a description as equitable and precise as could well be desired. And, speaking generally, claims in respect of improvements were not to be preferred were the improvement twenty years old, except in the case of buildings and the reclamation of waste land; nor if the improvement were prohibited by the landlord, under the conditions laid down; nor if it were made under a contract for value; nor if it were forbidden by a special contract; nor if, in certain cases, the landlord had agreed to make it; nor if the claim was barred by express written contract, in the case of improvements made before the Bill became law; nor, in the case, with some exceptions, of certain classes of leases; nor if the landlord, under certain conditions, permitted\* a tenant to dispose of his interest in his farm.

This measure, therefore, gave the Irish tenant farmer complete property in his improvements, within reasonable bounds, and yet did not here invade the just rights of the landlord; it was only to be regretted that it had not been proposed many years before. It proceeded, however, a great deal further, and asserted a principle, for the behoof of the tenant, which has since been very generally condemned,\* though in my judgment, it was essentially right,

\* Judge Longfield and Mr. Lecky are much the most distinguished of these numerous censors.

if carried somewhat beyond proper and safe limits. Except in the case of leases granted before the Bill, and of a class of leases granted when it was to become law, Mr. Gladstone engrafted on the great mass of Irish tenancies what really was a new tenant right ; he was probably convinced, though he did not say so, that this was to be an equivalent for the joint-ownership, more or less manifest, which, in innumerable instances, the Irish occupier had acquired in the soil. This tenant right was given the rather ambiguous name of 'Compensation,' in the event of 'Disturbance ;' a sum varying in amount from seven to one year's rent, according to the size of the holding, but in no case to exceed £250, was to be paid to a tenant when dispossessed by a notice to quit, and, in some circumstances, by other means ; this was to be over and above any sum due in respect of improvements ; but this, too, as in the case of the last-named sum, was to be paid only when the tenant was 'quitting' the land. Obviously this was a potential tenant right, if to be realised only in one way ; it practically gave a quasi-proprietary right in the fee, as, when commenting on the Bill, I pointed out at the time ; and I certainly thought that the compensation was very large, and introduced a principle into the Bill which might be abused. Two other provisions of the measure, with respect to the position of the Irish tenant, may be briefly noticed. No attempt was made to adjust rents, through the agency of the State, Mr. Gladstone having expressly denounced the idea ; but in the case of petty occupiers, subjected to 'exorbitant rents,' compensation for disturbance might be adjudged to them, even if evicted for not paying the rent, that is, the landlord might be mulcted in very heavy penalties. In nearly all instances, too, the tenant was declared to be entitled to 'his away-going crops,' another privilege, sometimes of no little value, and analogous to that secured by usage in many parts of England. So far the Bill dealt with the Irish land on

the side of occupation; but it dealt with it, also, on the side of ownership. John Bright had urged the expediency, during several years, of facilitating the transfer of the fee simple, in his holding, to the Irish tenant; this policy had been carried out, to some extent, by the Act disestablishing the Anglican Church in Ireland. The Bill of 1870 extended the principle; it provided that the State might advance moneys to Irish tenants, to enable them to become owners of their farms; but—and this should especially be kept in mind—the tenant was to supply a third part of the purchase money at least; and the transaction was to be effected by free contract, that is, by the voluntary act of the landlord disposing of his land. It remains to add, that the administration of the measure, was, for the most part—subject to an appeal to the Superior Courts—entrusted to the County Courts of Ireland, that is, to long-established tribunals of repute.

The Bill passed through both Houses with little change; it has long been known as the Irish Land Act of 1870. It was, in the main, I repeat, a great reforming measure; it effected a far-reaching improvement in the tenure of land in Ireland, and that without any marked infringement of the just rights of property. No impartial mind can fairly object to the protection given to the tenant right of the north and the south, or to the compensation secured for tenants' improvements; if 'Compensation for Disturbance' was a bold experiment, still this Parliamentary tenant right, as it may be called, was in harmony with fact in nearly all instances. Nevertheless, the Act had three marked defects; these largely detracted from its practical value. It bristled with such exceptions and limitations that it was difficult even for the learned to understand; it seemed to the unlettered peasant a dangerous puzzle, involving him, perhaps, in lawsuits and costs; it did not strike his imagination as a substantial boon. Though, too, it annexed a real tenant right to

nearly all farms, and thus secured to the Irish tenant, in almost all cases, any joint-ownership he may have acquired in the land, still this was intelligible only to educated men ; 'Compensation for Disturbance' was to be given only when an occupier was about to leave his holding ; but this was exactly what he could not bear to do ; he was, therefore, ready to accept almost any terms, rather than face consequences he dreaded to think of. Mr. Gladstone, again, had, in this measure, shown that he wished to assimilate Irish to English land tenure in the long run ; he sought to vindicate the just claims of the Irish tenant ; but he desired ultimately to give him the status of his fellow in England, a long-standing, false conception of British statesmen. The Land Act, therefore, provided that most of the rights it conferred on the tenant might be commuted by the grant of a lease for thirty-one years or upwards ; and it further enacted that tenants of the larger kind might 'contract themselves out' of the privileges it gave, by voluntary agreements made with their landlords. The object of this was to place the Irish land, by degrees, no doubt, under rather long leases, discharged from the tenant right and other claims ; but in the circumstances of Ireland this was a mistake. This part of the Act was a temptation to landlords, to persuade or even to force tenants to accept leases under conditions which might be too severe, with respect to rent and many other things, and to forego rights they would otherwise have enjoyed, by a process which might not be a free contract ; it encouraged, in a word, unfair evasion of the law. This flaw in the measure was pointed out from the first ; Mr. Gladstone, however, denied its existence, and characteristically shut his ears to other schemes of reform, notably to an ingenious proposal of the late Judge Longfield to extend the Ulster tenant right to all Irish tenancies by a very simple and self-acting process, and to a proposal of Butt to convert tenancies at will into long leaseholds, at the rents then current. These

projects certainly deserved attention ; and, whatever their shortcomings, were easy to understand.

The Act of 1870, like the Act dealing with the Protestant Church, was followed by a short-lived outbreak of agrarian crime put down only by severe coercive measures. This phenomenon has been common in Irish history, from the days of Tyrconnell to the present time ; disorder has been the immediate result of concessions ; peccant humours discharge themselves if you touch the head of an ulcer. There is some reason, too, to believe that in a few instances—and they were very few—wrongheaded landlords, alarmed at the prospect before them, began to harass and even to dispossess tenants ; they aimed at ‘clearing’ their estates, in order to evade the law ; conduct of this kind naturally provoked indignation in some places.\* Nevertheless, the Land Act of 1870 was generally well received in Ireland, though it fell short of the popular demand, and it was ill understood by the tenant classes ; † many farmers availed themselves of its benefits, especially those holding under the Ulster custom. Five or six years of prosperity followed, the brightest perhaps ever seen in Ireland ; agricultural prices were high, harvests extremely good ; the material progress of the country was decided ; the peasantry seemed, as a rule, contented ; agitation abandoned, as it were, the land, and concentrated itself on the Home Rule movement. Mr. Gladstone, always optimistic, and proud of his own offspring, boasted, towards the close of his first Ministry, that his recent legislation had done wonders ; the Land Act had reconciled Irish landlords and tenants, and had greatly increased the selling price of land ; he refused to see how much of all this was due to a cause wholly

\* By this time I was an Irish County Court Judge ; and I had some experience of reprehensible acts of this kind, extremely few as they were.

† It is very remarkable that the stringent provisions of the Act against exorbitant rents seem to have been almost unknown to the peasantry, though exorbitant rents were, no doubt, existing here and there.

independent of himself, the comparative well-being of nearly all Ireland. As had happened in the period from 1854 to 1870, this tranquillity was not deeply founded or complete; as then, it was, in a great degree, deceptive. The peasantry were living fast in a good time; banks and traders had made large advances to them on the security of tenure the law had created; their position became such, in some districts, that a season of distress might reduce many to sudden poverty, and be productive of the necessarily resulting evils. Rents, again, were rising as the country grew in wealth, though except in comparatively few cases—a fact that should be steadily kept in view—they were still, as a rule, by no means excessive; they were far below the rents of thirty years before; but this gradual rise was of course not popular. In some instances, too—but these were very rare, as was conclusively proved at a subsequent time—tenants, under more or less pressure on the part of their landlords, had accepted leases excluding them from the advantages of the law, and not equitable in some respects, or had wholly ‘contracted themselves out’ of the Act; this naturally caused alarm and distrust in many peasant dwellings. But the principal reasons that content was really less than it seemed to be in landed relations were altogether of a different nature. Like too many even excellent reforms in Ireland, the Land Act of 1870 became law too late; twenty years before it would have been hailed as an extraordinary boon; it was now regarded as almost a half measure, in view of the socialistic ideas about the land afloat. At the same time, Fenianism continued to make its influence felt; Irish-Americans continued to flit through the country denouncing British rule and Irish landlords, and calling upon the peasantry, as in 1798, to rise. Even in these years of prosperity, though rents were well paid, there was a secret movement against rent beneath the surface of things, so well concealed that it was absolutely unknown by the Government.

Meanwhile, in the midst of apparent peace, the elements of trouble in Ireland, still quiescent, were to come to a head, and to give rise to a movement, the most formidable to British rule, though skilfully masked, which had been seen since the rebellion of 1798. Revolutionary schemes in Ireland have always fastened on the land, as the chief source from which they could derive strength; the United Irish movement, as I have pointed out, was connected with a peasant movement against the payment of rent. This idea had been brought into marked prominence by John Finton Lalor, one of the rebels of 1848, a comparatively unknown, but a sagacious man; 'you must associate,' he wrote, 'the cause of Irish liberty, for which the people really care little, with a cause for which they care a great deal; an inert mass must be yoked to a powerful engine; the Irish landlord must be driven from the land, and the peasant masses be made its owners; and the fall of English power will follow that of its landlord garrison.' These words fell for the moment on unheeding ears; but the tradition has continued from that day to this; the destruction of Irish 'landlordism' was one of the objects of the Fenian leaders of 1865-67, and they denounced the Irish gentry in atrocious language, though they did not know how to carry out their policy. This teaching was eagerly adopted by Michael Davitt, a Fenian, who had been convicted of a crime against the State; during a long imprisonment at Dartmoor, he brooded 'on his country's wrongs,' but satisfied himself that if the independence of Ireland was a patriot's first object, this could be attained only by uprooting the existing land system, by hounding on the occupiers of the soil against its owners, and by handing it over as spoil to the peasantry. Davitt was released from Dartmoor at the close of 1877; he attended a meeting in Dublin at which Parnell was present, and two of the assassins of the Phoenix Park tragedy; and he became supreme in the ranks of the Fenian societies,

known as 'the Irish Republican Brotherhood,' which still retained a feeble life in Ireland, and even in England and Scotland. A short time afterwards he made his way to the United States, where he found the Fenians divided into two parties, known under the general name of the Clan na Gael, but having different objects, though with a common purpose. Both parties were for liberating Ireland 'from the Saxon yoke;' but the most violent and the most active sought to attain this end by expedients of desperate force; a 'skirmishing fund' had been established; 'England was to be invaded' by small bodies of 'resolute men;' her capital and chief towns were to be destroyed by dynamite. The other party, more prudent, but with similar aims, had been struck by Parnell's attitude in the House of Commons, and by the success of his unscrupulous tactics; its leaders began to think that something might be done by 'constitutional means;' they gradually came to an agreement with Davitt, that 'the overthrow of English domination' was to be their ultimate end; but that efforts in this direction were to be linked with energetic efforts to subvert 'the landlord system, a disgrace to humanity and to the civilisation of the present century;' to banish the Irish landed gentry from their country, and to secure their estates for their tenantry. This movement, though rebellious in no doubtful sense, was nevertheless to have a legal disguise; the wolf was to wear sheep's clothing; the 'formation of a peasant proprietary, and the abolition of arbitrary evictions,' were to be its proposed objects.\*

Treason, seeking support from socialistic greed, was thus the origin of the Land League conspiracy, for this was its only legitimate name. I have glanced at this movement, on its political side, as it was associated with the cause of Home Rule; I must here consider it on

\* Report of the Judges of the Special Commission, vol. iv. pp. 478-480.



its agrarian side, the most prominent, if not the most dangerous, to the State.\* The compact between Davitt and the moderates of the Clan na Gael was called the 'New Departure'; Davitt returned to Ireland to stir up what became known as the 'Land War'; Fenian emissaries went to Ireland, about the same time, in order to collect arms and to drill peasants, with a view to a possible rising should the occasion be found. Meanwhile, Davitt had addressed himself to what was more immediately at hand; in the spring of 1879 he got a meeting together, in his native county, Mayo, at which 'landlordism' and all its works were savagely denounced; during the following months other meetings of the same sort were held, but as yet only in the western province of Connaught. At these gatherings the crusade against the landed gentry went on; rebellious utterances were blended with ferocious diatribes against† landlords sometimes marked out for vengeance by

\* By many degrees the best account of the Land League movement will be found in the 'Report of the Proceedings of the Special Commission of 1888-89,' republished by the *Times* in four volumes. Reference may also be made to 'Parnellism and Crime,' a series of essays in the *Times*; to the 'Truth about the Land League,' by Mr. Arnold Foster; to 'The Continuity of the Irish Revolutionary Movement,' by Professor Brougham Leech; and to a pamphlet called 'The Queen's Enemies in America.' A kind of apology for the conspiracy will be found in 'The Parnell Movement,' by Mr. T. P. O'Connor, M.P.; but the Irish 'Nationalists' have judiciously been reticent on the subject. I may refer to my 'Ireland, 1798-1898,' ch. viii.

† These infamous speeches, worthy of Marat and Hébert, were continued for years, and fill a large part of the evidence in the proceedings of the Special Commission. I select a sample or two taken at random. Mr. M. Harris said, 'If the tenant farmers of Ireland shoot down landlords as partridges are shot in September, Mat Harris would never say a word against them' (vol. ii. p. 38). The same worthy, afterwards an M.P., exclaimed on another occasion (vol. i. p. 26), 'Mrs. Blake of Keenoye is no better than a she-devil. . . . Mr. Robinson called the people of Connemara vermin; the people of Connemara ought to treat him as vermin. Leonard of Tuam I will say nothing about. I will denounce him at his own door.' So, too,

name ; and the peasantry were called on to keep 'a firm grip on their lands ;' these would become their own should they only be steadfast. The Land League movement was now launched on its course ; but it was known to be an essentially Fenian movement ; it was subsidised from Clan na Gael funds ; it was supported by a murderous Clan na Gael print ; it was condemned in the severest language by an aged Catholic prelate, one of the few of O'Connell's surviving friends. The movement, however, as yet was not of much strength ; Davitt had opinions about the 'nationalisation of the land,' which, like those of the Fenian leaders of 1865-67, were not to the mind of the peasantry ; his efforts, hitherto, had not had much success. In this position of affairs he addressed himself to Parnell, who had had Fenian sympathies and associations for years, and had, we have seen, attracted Fenian admiration abroad ; what passed between the two men has not transpired ; but Parnell, if with reluctance, consented at last to become the head of the Land League and to direct the movement. The measures he adopted were skilfully designed, in harmony with the 'New Departure,' and with the double-dealing nature of a true conspirator. A Central Land League was established in Dublin ; it was to have 'branches' extending through the country ; it was to make a steady attack on the land system. Its professed objects, however, were constitutional, nay, fair ; it was 'to agitate against rack-rents and unjust evictions,' and to 'facilitate the ownership of the soil by its occupants.' The ultimate purpose of the League, nevertheless, was that of the Fenian chiefs ; of its seven high officers four

a Mr. Boyton said (vol. iv. p. 277), 'We have seen plenty of them, landlords and agents, that deserve to be shot at any man's hand. I have always denounced the commission of outrages by night, but meet him in the broad daylight, and if you must blow his brains out, blow them out in the daytime.' Multiply such speeches addressed to an excitable peasantry, and the results which followed can easily be understood.

were Fenians ; it was wholly supported by Fenian moneys ; its most prominent members made a boast of their Fenian sentiments.\* It was, in a word, a rebellious organisation in a constitutional garb ; it was the embodiment of what Parnell avowed afterwards : 'A true revolutionary movement in Ireland should, in my opinion, partake both of a constitutional and an illegal character. It should be both an open and a secret organisation, using the Constitution for its own purposes, but also taking advantage of its secret combination.'†

The Land League established, under these auspices, gradually made some progress in the western parts of Ireland, always centres of poverty more or less developed. It had not, however, as yet, become a power in the land ; Parnell went to the United States, as I have mentioned before, in order to obtain support for the 'New Departure.' He was the grandson of a distinguished American ; the elections for a President were near ; it was necessary to bid for the Irish vote ; the chief of the League was invited

\* This has been established by conclusive evidence, and should be carefully borne in mind. Mr. Egan, one of the treasurers of the League, said, 'On my own behalf, and on behalf of my friends of the League, both in prison and outside, I can say that we regard the land question only in the light of a step towards national independence, which is, and shall continue to be, the goal of all our efforts.' Mr. Healy, M.P., said, 'This is a movement to win back from England the land of Ireland, which was robbed from the people by the confiscating armies of Elizabeth and Cromwell. . . . But I would remind you that Mr. Parnell . . . explained the basis of the movement when he told the Galway farmers that he would never have taken off his coat in this movement were it not with Irish nationality as its object.' Parnell occasionally let out the truth ; he said, 'Let every farmer, while he keeps a firm grip of his holding, recognise also the great truth that he is serving his country and the people at large, and helping to break down English misrule in Ireland' (Report of the Proceedings of the Special Commission, vol. iv. pp. 203, 204). These speeches were, in hundreds, imitated and followed by other speakers.

† Report of the Judges, vol. iv. p. 486.

to say what his Irish policy was in the Representative House of the people ; and this he did in moderate and carefully chosen language. His real attitude, however, was very different ; he associated with well-known Fenian leaders, became acquainted with a contributor to the *Irish World*, the worst journal of the Clan na Gael press ; and more than once gave utterance to what was plain treason, notably to the 'last-link' speech already referred to. He obtained considerable funds for the League in Ireland, and before long founded a similar League in America, which became a Fenian organisation of the very worst type. Meanwhile a season of distress had visited Ireland ; this quickened the elements of disorder being already let loose. The harvest of 1878 was not good ; that of 1879 was the worst known since the Great Famine ; the prosperity of the country suddenly came to an end. There was a universal calling in of demands, especially from tenant farmers, who, I have said, had been rather extravagant, and had become involved in debt ; \* the whole class suffered more or less, though there was very little extreme indigence, and Lord Beaconsfield's Government was not slow in providing relief, which private charity largely increased. In these circumstances the landed gentry acted as any class would naturally act ; a considerable number made remissions of rent ; if a large majority, as certainly was the case, insisted upon their legal rights—conduct which must be pronounced unfortunate—it must be recollected that an agitation of extreme violence had been directed against the whole order ; and that Mr. Gladstone had declared that, after the Land Act, there were to be no more concessions. The League now acquired new power ; its branches spread over large parts of the west ; its directors, from members in the House of Commons, to its avowed agents, and to the 'village ruffians,' who carried out its bidding in many

\* I was at this time judge of the County Kerry ; these demands increased more than twofold at a single Quarter Sessions.

places, rioted in atrocious threats against landlords whether good or bad ; and a movement against the payment of rent began. The teaching which had been spread abroad during many months, bore the fruits which were to be expected from it ; there was a sudden outbreak of agrarian crime, and of Whiteboyism in its worst aspect ; it deserves special notice that this was confined to the counties where the League was in real force. The landlords, under these conditions, were often driven to enforce their claims ; attempts were made to show that the evictions that followed were the sole causes of this social disorder. But it is absolutely certain that this was not the case ; it was the Land League which provoked the evictions, and was responsible for the incidental crime.\*

The spring of 1880 had come ; Lord Beaconsfield had been driven from office, in an evil day for the renown of England ; Mr. Gladstone had been returned again to power, on the flood of a tide of democratic sympathy. Lord Beaconsfield was not an author of any very large Irish reform, but he understood Ireland much better than his impetuous rival ; he had seen from the first the real nature of the Land League movement ; in his address to the nation, when he dissolved Parliament, he declared that an 'attempt scarcely less dangerous than famine and pestilence' was being made to separate Ireland from Great Britain, words treated by Mr. Gladstone with scornful ridicule, but words of real truth. The incoming Minister had of late taken little heed of Irish affairs ; he had been engaged in his crusade in Midlothian, and in stirring up the multitude on the Eastern question ; but he had clung to his optimistic Irish faith ; he had solemnly announced that Ireland was 'contented and happy,' when the country was suffering from unquestionable distress ; he had even refused to renew a measure for the repression of agrarian crime, when agrarian crime was formidably on the increase,

\* Report of the Judges, vol. iv. pp. 522-525.

and the Land League was rapidly growing in strength. At last, however, partly opening his eyes to the facts, he appointed a Commission charged to report on Irish land tenure; and he introduced a Bill slightly to amend the Land Act of 1870, showing thus from the outset that he choose to regard a conspiracy against the State on its economic side mainly, and not in its far more grave political aspect. A word must be said on this measure, which had its origin, to a great extent, in sheer and audacious falsehood. By this time Parnell was at the head of some sixty adherents in the House of Commons; he had linked the Home Rule and the Land League movements; his followers were, in many instances, chiefs of the League; they induced Mr. Gladstone to listen to them, on representations characteristically untrue. Evictions were on the increase in Ireland, owing to the onslaught made by the League on the landed gentry; Parnell and his band unscrupulously exaggerated the number, perhaps twenty-fold, by confounding ejectment decrees of the Courts with evictions actually carried out; Mr. Gladstone appears to have accepted this shameful statement. The new 'Compensation for Disturbance' Bill, as it was called, provided that in the case of certain classes of tenants, although they had failed to pay their rents, compensation, withheld, we have seen, under the Act of 1870, might be afforded them, under rather strict conditions; this was certainly an innovation of a startling kind, but something was to be said for it, in the existing position of affairs. The House of Commons, however, disliked a measure nicknamed 'payment by reason of non-payment,' and limited its application in many ways; and the House of Lords, unfortunately, I think, threw it out.

This Bill, closely circumscribed as it was, would not have extended, perhaps, to many tenants; it was condemned by Parnell and his satellites as a sham. Its rejection, however, gave an opportunity to the League; its leaders proclaimed

at meetings, never so frequent before, that Ireland had nothing to expect from a foreign Parliament ; the attack on 'landlordism' became more intense ; treasonable and predatory harangues increased in vehemence. The influence of the conspiracy spread beyond Connaught, over nearly all Munster, and parts of Leinster ; wherever it was felt it was attended with agrarian crime ; 'crime,' as Mr. Gladstone exclaimed, 'always dogged its footsteps.' Offences of this kind portentously multiplied ; they had been eight hundred and sixty-three at the close of 1879 ; they were two thousand five hundred and eighty-nine at the close of 1880 ;\* and these included a number of barbarous murders, and of other atrocious deeds of outrage and blood, especially of the mutilation of the cattle of those opposed to the League. A kind of servile war springing from the land had set in ; and during this whole period the spokesmen of the League, whether in the highest or the lowest grades, continued to denounce the landed gentry, though they knew that their utterances were the direct incentive to far-spreading crime. Parnell, however, infinitely the ablest of the conspirators, perceived that this brutal disorder would incense Parliament, and, besides, could not have decisive results ; the cool, calculating schemer laid down a plan of operations for the League, which he hoped would be less openly detestable, and much more effective. Orders were issued that tenants should, in every part of Ireland, repudiate the rents they had agreed to pay, and should pay only such sums as had been assessed on land by a valuation made by the State for rates, a standard long acknowledged to be much too low ; every landlord who should reject these terms was to incur the vengeance of the League. By these means Parnell expected, and not without reason, that a great combination for the forcible reduction of rent would be formed, and that numbers of farmers would flock

\* Report of the Judges, vol. iv. p. 522.

in to the League, but he knew that his proposal was simply a defiance of the law, and that it would be resisted by many of the landed gentry; he hit on an expedient through which he believed he would attain his end. Should any landlord refuse to accept the sum offered instead of the proper rent, and should proceed to dispossess the defaulting tenant—and practically he could have 'no other remedy—the evicted farm was to be left derelict; it was to be smitten, as it were, by the interdict of the League; and any wretch who should dare to take it was to be banned by the whole neighbourhood; he and his, and those who dealt with him, 'were to be shunned as lepers,' and 'treated as traitors to the cause.'\* In this

\* Some of the cynical and wicked utterances of Parnell in proclaiming and expounding the new policy of 'boycotting' must be quoted. These, it is needless to say, were exaggerated in scores of speeches by orators of the League. In view almost of the corpse of a land agent who had been foully murdered, the arch-conspirator coolly remarked (*Proceedings of the Special Commission*, vol. iv. p. 257): 'I had wished in referring to a sad occurrence which took place lately, the shooting or attempted shooting of a land agent in the neighbourhood (uproar)—I had wished to point out that recourse to such measures of procedure is entirely unnecessary and absolutely prejudicial where there is a suitable organisation amongst the tenants themselves.' The methods to be adopted in 'boycotting'—the word was so named from a Captain Boycott, who was one of the first sufferers—were those set forth by Parnell (*Report of the Judges*, vol. iv. p. 498): 'Now, what are you to do to a tenant who bids for a farm from which his neighbour has been evicted? (Various shouts, among which, "Kill him!" "Shoot him!") Now, I think I heard somebody say "Shoot him" ("Shoot him!"); but I wish to point out to you a very much better way, a more Christian and charitable way, which will give the lost sinner an opportunity of repenting. (Hear, hear.) When a man takes a farm from which another has been evicted, you must show † him on the roadside when you meet him, you must show him in the streets of the town, you must show him at the shop counter, you must show him in the fair and in the market-place, and even in the house of worship, by leaving him severely alone, by putting him

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† In other, possibly more correct, reports, the word is 'shun,' not 'show.'



way, the crime of 'boycotting,' as it has ever since been called—its origin may be traced to the great Tithe War in Ireland—was made part of 'the unwritten law' of the League; and Parnell professed, whether sincerely or not, that through this device the League would baffle the law, and the landlords, as a class, as unhappily it did, in too many instances. Having thus armed the conspiracy with increased power, he cynically began to deprecate crimes of violence: the device of 'boycotting' was a more excellent way; it would before long 'bring landlords to their knees,' and would ultimately 'plant the tenant in his farm to be held at a nominal rent,' should he only be true to the League. At the same time the astute plotter found other means to extend his authority and that of the conspiracy he ruled. He appealed to the elective Local Boards in each county, composed for the most part of tenant farmers, to join the League, and to carry out his policy; and continuously but steadily he brought the force of the League to bear upon the administration of the law, by the intimidation of juries, magistrates, and even judicial persons.

The teaching of Parnell was disseminated by the League and its agencies, especially at gatherings of peasant mobs; it was largely followed wherever the League prevailed. In hundreds of instances tenant farmers were compelled or induced to tender sums, 'at Griffith's valuation,' as it was called, in lieu of the rents they were bound to pay; and on the rejection of the offer, refused to pay anything. A widespread combination against rent was thus set on foot, sustained by a principle of greed which held it together;

into a moral Coventry, by isolating him from the rest of his kind as if he was a leper of old. You must show him your detestation of the crime he has committed, and you may depend upon it, if the population of a county in Ireland carry out this doctrine, that there will be no man so full of avarice, so lost to shame, as to dare the public opinion of all right-thinking men within the county, and to transgress your unwritten code of laws.'

the League was more completely organised than it had been before ; it made its way into ten or eleven counties, the only centres in which it was formidably strong. In these circumstances the landed gentry acted, as an order of men so assailed would act ; not a few accepted the terms imposed on them, and took their rents at the reduced scale, the majority resisted the mandates of the League, and appealed to the law to enforce their rights. The terrors of the League were at once directed against those who had dared to defy it ; in a certain number of instances landlords and agents were brutally murdered, for popular passions had been let loose for years ; in many more 'boycotting' was carried out with such fatal effect that scores of families were driven out of Ireland, banned, persecuted, deprived even of the necessities of life ; in many others the demesnes of gentlemen were ravaged by 'Land League hunts,' overrun and half destroyed by savage mob gatherings. Evictions of course increased as the law was being trampled under foot ; it is hardly necessary to say that Parnell's doctrine was here ruthlessly applied ; evicted farms were left deserted and waste over thousands of acres ; the fears caused by 'boycotting' had become so intense, that no 'land-grabber,' as the name was, would dare to take them ; the success of the League was in this respect remarkable. The vengeance of the conspiracy, too, was extended universally to another class of persons. Tenants in numbers of instances paid their rents, either from an honest motive, or through dread of eviction ; the payment was often made at night, and under a pledge of secrecy ; but wherever they were discovered the League marked 'the traitor's doom ;' they were sometimes 'boycotted' almost to death ; sometimes murdered, often visited by gangs of ruffians—significantly known as Parnell's police ; the victims were shot in the legs, or the hair of their women was cut off, or their cattle were cruelly mutilated and maimed. It deserves special

notice that, as was to be expected, Parnell's warning against open crime was but little heeded; 'boycotting,' as Mr. Gladstone said, truly 'was but a passive thing;' it 'required assassination as its sanction;' the peasantry had been stirred up, in places, to frenzy; although Parnell made few violent speeches at the time, his satellites still gave a free rein to their wicked licence. Agrarian crime increased to an appalling extent; it had reached in 1881 a total of four thousand four hundred and thirty-nine cases, nearly two thousand more than those of the preceding year.\*

In the spring and summer of 1881, the power of the League was at its height; in its organisation and working it bore a strong resemblance to the Jacobin societies of the Revolution in France. It was directed by a council from a central office in Dublin; its orders were sent thence to the bodies connected with it; these, scattered over many parts of the country, enforced its decrees through 'boycotting,' crime, and terror. 'Obnoxious' persons, landlords, agents, 'land-grabbers,' and tenants who had paid their rents, were denounced and exposed to the League's vengeance; officers of the law and of justice were especially banned; even those thought to be 'luke-warm' in the cause were declared 'suspected.' In some districts the regular government was practically superseded by the government of the league, described by Mr. Gladstone as 'a scheme of anarchic oppression;' in these a Reign of Terror was really supreme. It will never be known to what extent the League made use of Whiteboyism and its secret conclaves in order to carry out its purposes; the central body, controlled by Parnell, probably did not, but the affiliated bodies certainly did; it is impossible to account otherwise for the enormous increase of agrarian crime; the branches of the League, it is generally supposed, overshadowed, so to speak, the Whiteboy societies; these

\* Report of the Judges, vol. iv. p. 522.

were active agents in the atrocious deeds that were done. It is scarcely necessary to refer to what the condition of social life was wherever the influence of the League was great ; despair settled on the hearts of thousands, who felt themselves exposed to unseen perils, and existed, as it were, in an atmosphere of crime ; and it must be borne in mind that for one member of the better class, fifty probably of the humbler, who had transgressed the law of the League, were kept in a state of moral dread and torture. By this time the Fenian League in the United States, formed by Parnell, but ruled by the Clan na Gael, had completely joined hands with the League at home ; its emissaries were found in many parts of Ireland ; its organ, the *Irish World*, 'spread what it called the light,' the teaching of treason, murder, and dynamite ; and it supplied the parent League with, probably, nine-tenths of its funds, for it is a significant fact, deserving special notice, that the contributions of the peasantry to the League were, from first to last, small. Large parts of Ireland were thus in a deplorable state ; but it is a complete mistake to suppose, as has been asserted, that the authority of the League was general throughout the whole island. Protestant Ulster, with a true instinct of what the conspiracy was, a movement against British rule in Ireland, kept aloof from the League, in angry contempt ; and though its influence was more widely diffused, it was confined, I have said, to comparatively few counties if regarded as a dangerous and formidable power. It is also absolutely untrue that the movement was the uprising of an injured peasantry against oppressive landlords. There was little distress in 1880 and 1881, when the League was rapidly growing in strength, for the harvests of those years were above the average ; and the Commission lately appointed by Mr. Gladstone had reported that over-renting in Ireland was not common, though instances of over-renting were of course to be found.\*

\* It is very important to bear this in mind, regard being had to the

The centre of disturbance formed by the Land League was, I have said, comparatively small ; and it was, for the most part, limited to backward and poor districts ; its wicked and sordid teaching did not command the sympathies of the more intelligent and better parts of Ireland. Its influence, however, spread, in different degrees of strength, over nearly the whole of Catholic Ireland, and it was more or less supported by the Catholic priesthood, in many instances yielding to the pressure of their flocks. Within the bounds where it did not create a Reign of Terror, it was joined by thousands who thought it a constitutional movement, especially by peasants only seeking an improved tenure ; and it is not pretended that even a majority of those who took part in it had treasonable or rebellious objects in view. But it was not the less a conspiracy hatched abroad, and aiming at the subversion of British power in Ireland ; this was the policy its leaders avowed ; and a conspiracy must be judged by the acts and words of those who direct it. The state of anarchy in Ireland had become such, in the spring of 1881, that the Government was compelled to try to put it down ; a prosecution against Parnell and his chief lieutenants had failed ; a Bill, resisted by obstruction, more persistent than had been ever known before, passed through Parliament with the object of

circumstances of the time, which have been shamefully misrepresented, and to subsequent legislation and its administration. I quote a few words from the Report, p. 3 : 'It was unusual in Ireland to exact what in England would have been considered as a full or fair commercial rent. Such a rent over many of the larger estates, the owners of which were resident, and took an interest in the welfare of their tenants, it has never been the custom to demand. The example has been largely followed, and is, to the present day, rather the rule than the exception in Ireland.' M. de Molinari, a very competent foreign observer, wrote to the same effect in 1881 : 'Le taux général des rentes est modéré ; autant que j'ai pu en juger, il est à qualité égale de terrain de moitié plus bas que celui des terres des Flandres' ('L'Irlande, le Canada, Jersey,' p. 138). See for further authorities, Mr. Lecky's 'Democracy and Liberty,' vol. i. p. 179.

repressing the Land League. The measure, however, was not well designed ; minor agents of the League, 'village ruffians,' 'Parnell's police,' and the like, were imprisoned in large numbers, no real punishment ; but the chiefs of the conspiracy were not brought within the law ; the funds of the League were removed to Paris ; the movement went on in its destructive course. 'Coercion,' nevertheless, was beginning to produce its effects, as it has always done in Irish disorders, when Mr. Gladstone made a sudden change in his policy, never made before by a Minister at the head of the State. He had denounced the conspiracy in passionate language ; he had partly at least seen what its objects were ; 'it aimed at dismemberment through rapine ;' but always a man of phrases and not of action, he had shrunk in every passage of his career from facing difficulties where popular feelings were involved ; and while Ireland was still in a terrible state, he resolved to make a great concession to the League, and to effect a complete revolution in the Irish land. It was a surrender akin to that of Majuba, made with little information, and without mature reflection ; whether its author believed, as I have remarked, that the conspiracy was most dangerous on its agrarian side, or was willing to propitiate Parnell, at the expense of the Irish landed gentry, he inaugurated the legislation, ever since pursued, which has resulted in destroying the property of the Irish landlord, without gaining the sympathy of the occupier of the Irish soil, has reduced the land system of Ireland to a ruinous chaos, and has, in essential respects, been an absolute failure.

Mr. Gladstone's position was difficult when he introduced his new Irish Land Bill ; his speech in the House of Commons, lucid as regards details, was apologetic, ambiguous, often beside the subject. He went out of his way to praise Irish landlords, 'acquitted,' he declared, by the late Commission ; he deeply regretted a new experiment

on the Irish land. He retained his admiration for the Act of 1870, but insinuated that it had been injured in the House of Lords; had this not been the case, it would have settled the Irish land question. He passed over his solemn pledges, on the faith of which millions had been lent on Irish estates, that the legislation of eleven years before was final; here he took refuge in appeals to 'Divine Justice,' in the 'light of which' a statesman must walk, as if Divine Justice was an excuse for a gross breach of faith. He then unfolded his plan of reform; he endeavoured, with an ingenuity all his own, to distinguish it from the schemes he had emphatically condemned in 1870; but in this respect mystification was at fault; the measure was a clumsy imitation of the 'Three F's,' and where it differed, it differed greatly for the worse. Anticipating objections certain to be made, the orator dismissed 'political economy to Saturn' with a confident gesture; for some untold reason the philosophy of Adam Smith could not possibly apply to the order of things in Ireland. But by many degrees the most important part of the speech, in view of events which have since happened, was that in which Mr. Gladstone announced that should the measure really injure the Irish landlord, the State was bound to provide an indemnity. He denied, indeed, that the Bill could have any such effect; it would be a boon, he gravely said, to the Irish landed gentry; but should the contrary be the case, 'compensation' would be clearly their right. 'I do not hesitate to say'—these were his very words spoken after the Bill had made much progress—'that if it can be shown, on clear and definite experience, at the present time, that there is a probability, or if after experience shall prove that, in fact, ruin and heavy loss has been brought on any class in Ireland by the direct effect of this legislation, that is a question which we ought to look very directly in the face.' The same meaning was even more clearly expressed: 'I should certainly be very slow to deny that

where confiscation could be proved, compensation ought to follow,' and several of Mr. Gladstone's lieutenants spoke in the same sense.\*

The Bill, I have said, applied the principle of the 'Three F's' to the relation of landlord and tenant in by far the greatest part of Ireland. As in the case of the Land Act of 1870, it excluded certain classes of lands from its scope, demesnes, residential holdings, town parks, and large pastoral farms; it extended also only to tenants at will, that is, subject to a notice to quit; it left tenants under leases outside its purview. It was confined, too, to 'present tenants in occupation,' at or near the existing time; it had no reference to 'future tenants,' that is, to tenants holding by contracts made after the Bill should pass, or a few months afterwards. Subject, however, to these exceptions, on the whole not large, the measure placed tenancies in Ireland under the 'Three F's,' but with conditions of tenure peculiar to itself, and hitherto unknown in Ireland, or in any part of Europe. 'Fair Rent,' which, under the Ulster Custom, was settled by a bargain between landlord and tenant, was to be adjusted through the intervention of the State, legislation akin to the mediæval statutes regulating the price of bread, and the wages of labour. 'Fixity of Tenure' was not to be a perpetuity in name; Mr. Gladstone feared that the speeches would be thrown in his teeth, in which he had declaimed against the idea; it was to be a lease for fifteen years, but capable of being renewed for ever, as a rule, through a periodical and costly lawsuit. 'Free Sale' was to be conceded under somewhat strict conditions; and the landlord was to be afforded a right of pre-emption in the case of such sales, in accordance with the analogy of the Ulster Custom. An estate virtually perpetual, at a State-settled rent, was thus to be carved out

\* Mr. Gladstone, speeches in the House of Commons, July 22, 1881, and May 10, 1881. Lord Carlingford, and notably Lord Selborne, said nearly the same.



of the landlord's fee, and given to tenants actually in possession of the land ; it was created in absolute derogation from the landlord's rights ; it was a large if partial expropriation, in no doubtful sense. As to the interest of landlords in what was left of their property, they were to retain what are usually known as 'royalties'—timber, minerals, mines, and privileges of sport ; they were to have the ordinary remedies for enforcing payment of rent ; and the statutory leases were to be subject to certain conditions, taken, for the most part, from the Ulster Custom, the violation of which might lead to their forfeiture. A tribunal, called the Land Commission, was to be set up to carry the law into effect, that is, to 'fix fair rents,' and to make tenures 'fixed ;' it was to be assisted by dependent agencies, known as Sub-Commissions, which, Mr. Gladstone intimated, were to be quite subordinate, and from which appeals to the Land Commission were to run ; but a sinister feature of an untried revolutionary scheme—the decision of the Land Commission as respects 'fair rent'—was to be final. Subject to an appeal to the Land Commission, the Irish County Courts were empowered to administer the law ; but it was foreseen that they would not do much in this province. The new modes of tenure might be applied to lands, by agreements between landlords and tenants carefully guarded ; and Mr. Gladstone believed that this would be the ordinary course of dealing. The Bill, he thought, would not cause litigation to any great extent ; it would operate as a self-acting force to lead to friendly contracts.\*

So much for the scope of the Bill and the classes of tenants to which its benefits were to extend. A most important change was made in the measure, which contained, originally, nothing of the kind ; this has been attended with far-reaching results. As we have seen, tenants were to be compensated for their improvements,

\* This I know to be the fact on the very best authority.

under the Act of 1870; but the compensation was to be paid only when they were leaving the land; Mr. Healy, one of the ablest of Parnell's lieutenants, induced Parliament to accept a provision exempting tenants' improvements from rent, when the adjustment of 'fair rent' was to be made. However equitable in principle this might appear to be, it was, in the peculiar state of Irish land tenure, unjust in the extreme to landlords, as I shall endeavour to point out afterwards; and it has been a source of litigation, as mischievous and demoralising as can well be conceived. The Bill, like the Act of 1870, prohibited the subdivision and subletting of farms—an inveterate evil practice of the Irish peasant—under conditions possibly rather too strict; and it made changes, in that statute, which require attention. It added weight, so to speak, to the law, in the tenant's interest; it increased the amount of compensation in respect of disturbance; it limited the power of 'contracting out,' to a smaller class of tenants than had been the case before, in fact, to large capitalist farmers; and it provided that tenants, who had accepted leases excluding them from the benefits of the Act of 1870, through illegitimate conduct on the part of their landlords, should be exonerated from such unfair contracts. It thus greatly amended the original Land Act; but it left many of its defects untouched; it is only right here to add that despite the lying clamour raised by the subsidised Press of Parnell—lying has ever since been part of its stock-in-trade—the instances were exceedingly few in which 'forced leases,' as they were called, were set aside by the Courts. A remarkable feature of the Bill has yet to be noticed: Mr. Gladstone, as was the case eleven years before, had still the wish, so characteristic of British statesmen, to assimilate Irish to English land tenure; for this reason, as I said, he deprived 'future tenants' of the advantages of the Bill; these were to hold their farms on the footing of pure contract. This was a shortsighted and

bad arrangement ; it tempted directly ill-conditioned landlords to dispossess tenants, whenever a chance offered, and to create 'future' tenants so as to discharge their estates from a burden ; it revealed marked ignorance of the affairs of Ireland. The Bill dealt, also, with the land on the side of ownership ; it gave additional facilities to tenants to purchase their holdings ; the State was empowered to advance three-fourths of the moneys ; but the tenants were to find the remaining fourth ; the transaction was to be still a purchase, and not in the nature of a gift.\*

The Bill became law, with very little change ; the House of Lords, though fully alive to its evils, did not amend it in any important respect ; the Peers had in mind, perhaps too much, what had followed the rejection of the Bill of the year before. Mr. Gladstone and his followers maintained at the time, and the statement has been ever since repeated, that the Land Act of 1881, its popular title, was but a natural development of the original Act of 1870 ; but this assertion is not only untrue, but absolutely contrary to the truth. The Act of 1870, no doubt, considered as a whole, annexed a large tenant right to the estate of the landlord, and to that extent placed a burden on it ; but it preserved for the landlord the ownership of the land ; it did not interfere with his rent, his first proprietary right ; above all, it was, in the main, in accord with fact, and just. The Act of 1881 was almost the exact opposite ; it deprived the landlord of the ownership of his land, and nearly converted him into a mere rent-charger ; it created against him a perpetuity at a State-settled rent ; it really all but made the tenant the owner of the land ; it was, in short, inconsistent with fact, and essentially unjust. The Act of 1881, too, established a principle, never heard of before in civilised countries, that tribunals of the State

\* A good popular account of the law of 1881 will be found in Mr. Lecky's 'Democracy and Liberty,' vol. i. pp. 182-197. See for an elaborate and technical description, 'Cherry and Wakley,' pp. 217-343.

were to fix the rate of rent ; this not only annihilated the most important of landed contracts, entirely to the landlord's detriment, it inevitably tended to cut down rents wholesale, as Judge Longfield had predicted would be the case. 'It is probable,' wrote that great authority, 'that the value of land, as fixed by any tenant-right measure, would be less than half the rent, which a solvent tenant would be willing to pay ;' \* the prediction has been too well verified. The Act of 1870, in a word, was a remedial law, fairly adjusting the rights of landlord and tenant ; the Act of 1881 was a socialistic law, despoiling the landlord of his property wholesale, and handing it over to a dependent who had no claim to it ; it was sheer confiscation hardly disguised ; and it should be added that the exemption of tenants' improvements from rent, as affairs stood in Ireland, was a grave wrong to the landlord. The Act of 1881, to speak plainly, transformed the Irish land system iniquitously for the benefit of a single class ; and it directly promoted litigation of the very worst kind, on an enormous scale, embittering, and still further dividing, the classes connected with the land. The evils of this legislation, a monument of reckless unwisdom, were at once manifest to well-informed persons ; the Duke of Argyll and Lord Lansdowne resigned office rather than take part in a measure of the kind ; Lord Ashbourne, the present holder of the Great Seal in Ireland, caustically remarked that Parliament would do much better should it deprive Irish landlords of a fourth part of their rents on the spot. The verdict of enlightened and impartial opinion in Ireland was very much the same.

I shall comment on the administration of this law in another chapter ; enough to say here that what was bad was made, by many degrees, worse. The conduct of Parnell, as regards the measure, was characteristic ; he assumed an attitude of moderation, and proposed to make

\* 'Systems of Land Tenure,' p. 59.

'a trial of the Act by test cases;' he wrote to his Fenian friends in the Far West that the Act was a mockery; he allowed the Land League to riot in lawlessness as before. Mr. Gladstone, always incensed when his will was crossed, shut him up in prison under the recent statute, with several prominent leaders of the League; the reply was a manifesto against the payment of any rent, unhappily obeyed in some districts, though every symptom of exceptional distress had passed away. A brief but violent struggle was the result; the peasantry refused to pay a shilling in several counties; and as the principal agents of the League were within four walls, flights of viragoes, like those of the French Revolution, were let loose to preach, far and near, the evangel of 'no rent.' This conflict, however, was not lasting; agrarian crime and disorder, indeed, still continued frequent; but the Government was too strong for the 'Ladies' Land League;' by the spring of 1882 its triumph appeared to be certain. But Mr. Gladstone, 'unstable as water' in view of what he deemed popular movements, would not steadily persist in vindicating the law; the imprisonment of the chiefs of the conspiracy and their subordinates, in large numbers, seems to have made him feel sore if unworthy misgivings; he surrendered to the enemies of the State, for the second time, and entered with Parnell into the famous 'Kilmainham Treaty,' as shameful as the Glamorgan Treaty which cost Charles I. his head. The 'Suspects,' as they were called, were set free in scores; the Lord-Lieutenant and the Chief Secretary indignantly left their posts; a new Government for Ireland was formed, charged to carry 'conciliation,' as the phrase was, out, that is, to make fresh concessions to Parnell and his creatures. But the auspicious prospect was suddenly darkened by the frightful assassinations of the Phoenix Park; these cannot be justly laid to the charge of the League, indeed were against Parnell's interest, for it was generally expected he

would obtain high office ; but two agents of the League were implicated in the crime ; and the Press of the League began soon to plead for the murderers. The mind of England was now thoroughly roused ; Mr. Gladstone, bowing at once to England's will, carried through Parliament the severest repressive measure that has ever, perhaps, been applied to Ireland. The battle with the League was soon brought to a close ; the conspiracy indeed resisted for a time, and crime, as always, was attendant on it ; and the Clan na Gael gave it all the assistance it could, in large subsidies which had never ceased, in the dissemination in Ireland of its incendiary journals, and especially by 'carrying the war into England,' and fulfilling its threats to attack her chief towns by fire and dynamite, outrages, however, that really came to nothing. But 'coercion,' as has been invariably the case in Ireland, produced its effects ; agrarian crimes, which, in 1882, if less than those of the year before, were, nevertheless, three thousand four hundred and thirty-two in number, had fallen to eight hundred and seventy in 1883.\*

The Land League was paralysed, if not destroyed ; its organisation was, in name, suppressed by its framers. It reappeared, however, at once, in a new form ; the skill of Parnell in masking a conspiracy was never more fully displayed. He felt that the Land League could not cope with the law ; that the crimes of violence and blood, which attended its course, gave the Government opportunities to put it down ; that its openly avowed purposes were a danger to it. He set up, therefore, the 'National League' in its stead ; the professed object of the association was to promote 'Home Rule,' while it upheld the rights of the occupiers of the Irish soil, and kept the Irish land, so to speak, in view ; it was thus apparently a mere centre of a constitutional movement. Through these means, and under these pretences, the astute and able plotter swept

\* Report of the Judges, vol. iv. p. 522.

into his net thousands who had held aloof from the Land League; many of the middle classes joined the National League, notably hundreds of the clergy of the Catholic Church in Ireland; the peasantry gave it increased support; its influence spread beyond its predecessor's limits. The National League, however, was only the Land League under another name; \* its leaders and officials were the same men; its 'branches' were those of the League it replaced; its real objects were exactly the same, the overthrow of British rule in Ireland, and the annihilation of the Irish landed gentry. But the methods it employed to work out its ends were, to a great extent, different; open agitation was kept down; public meetings, likely to be violent, were not held; the perpetration of agrarian crime was not encouraged. The movement, in a word, was comparatively secret and below the surface; but it was essentially the successor of the Land League in its aims; we may say of it, with a slight change, in the words of the poet—

‘Facies non una sororum,  
Nec diversa tamen.’

‘Boycotting’ was now made the chief weapon of the reformed conspiracy; ‘National League Courts’ were held regularly in many districts, at which this barbarous interdict was systematically pronounced on persons violating ‘the unwritten law’ of the old League; the persecution against landlords, agents, ‘land-grabbing’ peasants who were ‘disloyal and traitors,’ and traders suspected of dealing with ‘rotten sheep,’ was carried on with a pertinacity and ingenuity hardly known before; the number of derelict farms augmented; and the Government found it far from easy to deal with these crimes. At the same time, ‘the Nationalist Press,’ as it had been named, fully

\* Report of the Judges, vol. iv. p. 532: ‘We consider that the National League, like the Ladies’ Land League, was substantially the old Land League under another name.’

revealed the purpose of the conspirators ; trusting to impunity, under the law of libel, which depended upon the will of juries, it was even more treasonable and seditious than before ; and it gave infamous license to defamation of personages in high places, worthy of the abominations of the Père Duchesne.\* Ireland, however, remained in comparative peace while the recent measure of repression continued in force ; but this was injudiciously allowed to expire in 1885—a strange act on the part of a Conservative Ministry ; and in a short time agrarian disorder broke out afresh. Crimes of this class had fallen, in 1884, to seven hundred and sixty-two in number ; they were one thousand and fifty-six in 1886 ; and ‘boycotting’ had increased fourfold.†

\* I quote a few words from hundreds of these detestable writings, which should be studied. Mr. William O’Brien, the editor of one of Parnell’s newspapers, and now the leader of the ‘United Irish League,’ published this in *United Ireland*, April 18, 1885 : ‘It would be still more gratifying if the Irish millions, scattered over the globe, should wake up one of these mornings to hear the war chimes joyfully ringing the declaration that would drive England on to downfall and destruction.’ And again, September 19, 1885 : ‘We cannot fight England in the open. We can keep her in hot water. We cannot evict our rulers neck and crop. We can make their rule more insupportable for them than for us. . . . It is no fault of ours if we cannot organise Waterloos to decide our quarrels.’ As to personalities, I quote two passages. December 15, 1883 : ‘Monstrous and incredible, surely, six hundred Irish gentlemen could not eat their dinner without pouring out libations to the adoration of an old lady who is only known in Ireland by her scarcely decently disguised hatred of this country, and by the inordinate amount of her salary.’ Again, June 13, 1885 : ‘With all the stubborn force of a cruel, narrow, dogged nature, Lord Spencer struck murderous blow after blow at the people under his rod. He stopped at nothing ; not at subsidising red-handed murderers, not at knighting jury-packers, not at sheltering black official villainy with a coat of darkness, not at police quarterings, blood taxes, the bludgeoning of peaceful meetings, the clapping of handcuffs and convict jackets on M.P.’s, mayors, and editors, not at wholesale battues of hangings and transportations by hook or crook.’

† Report of the Judges, vol. iv. p. 522. Mr. Gladstone in the House of Commons, April 8, 1886.



The National League remained quiescent, while Mr. Gladstone was making another surrender, and endeavouring to carry Home Rule through Parliament. Upon the rejection of the measure of 1886, its activity was renewed ; and it found considerable support from the American Fenians, who, from first to last, had been its chief paymasters. I have referred to the Convention at Chicago graced by Parnell's envoys, and to the wild boast that the English 'government of Ireland was to be made impossible ;' the treasonable aspect of the conspiracy became at once manifest. The League was assisted by another season of distress, from 1886 to 1888 ; the number of its adherents greatly increased ; it began, like its predecessor, to defy the authority of the State. I have already dealt with this movement on its political side ; I shall not repeat what I have already written : how the League endeavoured to stir up disorder in Ireland ; how it declared open war against the Castle ; how it tried to terrorise the ministers of the law ; how it made 'boycotting' more effective than it had ever been ; how, if responsible for many grave deeds of blood, it mainly relied on this malign influence, which tortured hundreds of victims in many districts, and was fitly compared to 'the pestilence that walks in darkness ;' how Mr. Gladstone and the Opposition, to the disgrace of both, gave the conspiracy their support and excused its crimes ; and how it was ere long put down by Mr. Balfour strongly seconded by Rome. But I must say a word on the agrarian side of the movement ; for this illustrated the increased ingenuity of the League. Some of its leaders issued a mandate against the payment of rent, except upon reductions to an enormous extent ; should the landlords refuse, the tenants, on every estate, were to lodge their rents into what was called the 'War chest,' a common fund to be held in trust ; the object of this being to prevent the secret payment of rent, which had repeatedly, we have seen, taken place, and to put a stop to 'defection from the

cause.' The 'Plan of Campaign,' as was its name, was thus ushered on ; it was a criminal plot of the very basest kind ; but though it proved successful in some instances, and it caused much agrarian disorder and crime, it was, on the whole, a comparative failure. The peasantry, close-fisted and shrewd, distrusted the so-called 'trustees of the War chest ;' they generally declined to put their money in it ; the 'Plan' was only carried out on few estates, though it compelled many landlords to make reductions of rent ; it is remarkable that Parnell did not approve of the swindle. Long, however, before the defeat of the League, there had been a thousand instances of agrarian crime : five thousand miserable beings had been 'boycotted,' in many cases with frightful results ; a thousand had been placed under the protection of the police. As had happened during the *régime* of the Land League, these victims were nearly all of the humble classes.

In 1887 another change was made in the Irish land system, essentially a development of the Land Act of 1881. That measure, I have said, applied to tenants at will only, that is, liable to be dispossessed by a notice to quit ; it did not apply to tenants under leasehold tenures. A sharp distinction, therefore, was drawn between the two classes ; a farmer, with land on one side of a ditch, could secure the advantages of the 'Three F's ;' his neighbour, on the other side, could not ; the distinction was so palpably harsh, that many landlords in Ireland saw its injustice, and enabled leasehold tenants to obtain the benefits of the law. An Act, prepared by Lord Salisbury's Government, brought ordinary Irish leaseholders within the Land Act of 1881 ; these were given a right to have 'fair rents' fixed, and 'fixity of tenure' and 'free sale' under certain conditions. The Act of 1887, also, empowered the Courts to set aside perpetual leases unfairly obtained ; and it relaxed the restrictions of the Act of 1881 with respect to subletting and subdivision, and the exclusion of 'town parks.' It

improved, moreover, the law of ejectment, facilitating the vindication of the rights of the landlord ; and—a strange provision—it enabled a middleman, in certain events, to creep out of his contract, and to free himself from the rent due to his superior landlord. In consequence of the fall of prices that had lately occurred, and the depression of agriculture that had been the result, the Act, too, reduced, for a short period of time, 'fair rents' that had been already fixed ; and it contained other enactments wholly in the interest of the occupier of the Irish soil. Regarded as a whole, something was to be said for the measure, on the principles of the legislation of 1881 ; but the liberation of the middleman from the payment of a debt has been attended with grave wrong, and was an ominous precedent leading to others of the kind. The new law was, of course, another inroad on the rights of the Irish landlord, another innovation made against his interests ; it has certainly strengthened his claim to compensation for the loss of his property, acknowledged by Mr. Gladstone to be unquestionable, should it be reasonably made out. For the rest, the National League made a boast that the Act had been wrung by its efforts from a foreign Parliament ; the Act certainly, like that of 1881, was a concession, derogating from the rights of a powerless class, in the hope of weakening a conspiracy against the State, by detaching from it large classes supported by it, and handing over to these what had belonged to the Irish landed gentry.\*

The Land Act of 1887, it has been alleged, was the principal cause that disorder in Ireland was suppressed, and that comparative peace was restored. The measure may have had effects in this direction ; but these assuredly were not great ; the number of leaseholders was not large ; the reductions made in 'fair rents' were temporary and

\* For an elaborate account of the Act of 1887, see 'Cherry and Wakley,' pp. 367-420. Reference, too, may be made to Mr. Lecky's 'Democracy and Liberty,' vol. i. pp. 198-200.

small. In truth, as agrarian war, stirred up by the Land League, did not diminish when the Act of 1881 was passed, but was brought to an end by what is called coercion, the agrarian war, stirred up by the National League, was quelled, not by the Act of 1887, but by resolute government, assisted by a repressive measure infinitely less stringent than that of 1882, and, in some degree, I have said, by Rome. It is worse than unwise to ignore plain facts; grave outbreaks of disorder and crime in Ireland can only be put down by severe means, and invariably have been put down by these; that 'force is no remedy' is mere false sentiment. The violence, nay, the power, of the National League decreased rapidly and greatly after about 1889; the conspiracy seemed well-nigh to have dwindled away. This was partly because Parnell, negotiating with Mr. Gladstone, in the hope of obtaining Home Rule, discouraged agitation of every kind in Ireland, and in order to hoodwink the English people, and to bring about the 'Union of Hearts,' represented, with his followers, that Ireland was at perfect peace, and only awaited 'self-government' to be completely happy. But infinitely the most potent reason was that the fall of Parnell almost broke up the League; his creatures split into angry factions, exasperated against each other by furious discord; as the result the organisation of the League was shattered; the peasantry and the Catholic priesthood fell away from it. At the same time the Fenians in the United States, much its best supporters, withdrew the subsidies they had hitherto lavished; the League became penniless and almost powerless. By 1895 the conspiracy showed scarcely a sign of life; agrarian crime had sunk to a very low ebb; there was no sign of a movement against the payment of rent; order prevailed, it may be said, throughout the community. The conspiracy, nevertheless, was not dead; its leaders, if quiescent, had not disappeared; well-informed observers knew that the end had not come. I have

described in another chapter, by what means, and through what conditions, it revived gradually under Lord Salisbury's third Government, and acquired strength that may be on the increase ; it is not yet formidable, in any real sense, and its leaders are not to be named with Parnell ; it is not receiving funds as yet from America ; but the United Irish League is its true successor ; and this commands eighty votes in the House of Commons. Time only can show if a period of agrarian strife and crime may not be about to open again for Ireland ; it is foolish optimism to assert that this is impossible, or to contend that the agrarian legislation of the last twenty years, as regards the Irish land, will necessarily, or even probably, produce this fortunate result.

In 1891 another change was effected in Irish landed relations, as usual in the interest of the tenant, and against his landlord. Middleman tenures had well-nigh been extinguished ; but some hundreds, probably, were still to be found ; and as a middleman, through the legislation of 1887, was enabled to repudiate his contract, in certain cases, and to escape the payment of rent to his superior landlord, he was now to obtain an advantage in other instances. The large majority of this class of intermediate owners, originally created in the eighteenth century, held, at least, in present times, by perpetual leases, which had long ago, as a rule, been converted into estates in fee farm, that is, estates in fee, subject to a perpetual rent ; Parliament passed an Act in 1891, enlarged and amended five years afterwards, declaring that, in cases in which tenants of this kind were 'in *bond fide* occupation' of lands, under rents which, in the judgment of the Land Commission, should be 'a full agricultural rent,' they might either agree with their landlords to redeem the rent at a price to be determined by that tribunal, or, should the landlords refuse their consent, might have 'fair rents' fixed as in the instance of common farming tenants.\* The

\* For an account of this legislation, which has not received the

application of this law could not extend far, for tenants of this description were very few ; but it asserted a strange, and, I think, a most vicious principle. The Act practically forced a superior landlord, often a poor man, either to accept a price assessed by a Court over which he had no control, in lieu of a rent, in all probability reasonably well secured, or, as an alternative, to submit to have a 'fair rent' fixed on the land, the rent to be discharged from improvements made by the tenant. If, therefore, a tenant of this kind had built, say, a valuable house, on his holding, which would thus largely add to the security for the rent, this—at least, so it is generally believed—was not to be taken into account in fixing 'the fair rent;' and this principle, it may confidently be predicted, will be extended further. Should a tenant, at a 'fair rent,' in this predicament, be evicted for the failure to pay the rent, a law, in all human probability, will be made, to obtain for him compensation, under the Act of 1870, from the benefits of which he would be, as affairs stand, excluded. The result might be that if, as would often happen, the improvements he had made were of great value—his interest, in the land, being a perpetual interest—the sum the landlord would be adjudged to pay, might swallow up the whole value of the rent, and practically confiscate his whole property.\*

In 1896 another inroad was made on the rights of Irish

attention it deserves, as it is limited in its scope, see 'Cherry and Wakley,' pp. 468-472, and 'Barton,' pp. 104-106.

\* Upwards of thirty years ago, when the question of compensating Irish tenants for their improvements was coming fully to the front, a wealthy middleman, who held a large demesne in perpetuity, at a rather high rent, and had built a valuable mansion on it, in addition to planting hundreds of acres of woodland, asked me 'if I thought Parliament would compensate him, for, in that case, he could make his landlord pay him £30,000.' My reply was that 'Parliament would not be so insane.' I should be sorry to make such a reply now, having regard to recent legislation.

landlords, and another dole given to the tenant class in Ireland; the descent to Avernus had proved easy; a Conservative Government had followed it since 1887. This fresh legislation was mainly in the interest of the Presbyterian farmers of Ulster, who had supported the Union almost to a man, and possessed no little political weight; but who, always separated more or less from their landlords, had shown dissatisfaction with the fixing of 'fair rents,' and had begun to cry out for what is called 'the compulsory purchase' of the estates of their landlords, a policy on which I shall comment afterwards. The Bill contained just and well-devised provisions; it improved the procedure for fixing 'fair rents,' if not nearly as thoroughly as it ought to have done; it protected the leases creating 'fixity,' under the new tenure—Mr. Gladstone, flying in the face of the ablest lawyers, had passionately declared that these were sacrosanct—in instances in which these might have been annulled; it proposed, what I had always considered right, that old arrears of rent ought not to be allowed to hang over the heads of tenants, and that rent could not be recovered on eviction, if due for upward of two years.\* But the Bill abounded in principles dangerous and false; it was, taken as a whole, a mischievous measure; it was another mine sprung upon the Irish landed gentry. Lands hitherto excluded from the benefits of the 'Three F's,' under the Acts of 1881 and 1887—that is, demesnes, town parks, residential, and pastoral holdings—were largely brought within the scope of the Bill, that is, they were made subject to 'fair rents,' and, if held by tenants, were practically taken away from the landlords; the provisions of the Bill, as to demesnes, were especially harsh; many a

\* I believe I may claim some credit for having contributed to this provision. I had had large experience of the injustice of keeping tenants subject to long-standing arrears; and, as a judge, had taken strong measures to prevent and defeat the practice.

mansion and demesne, which might happen to be let, would really become the property of the tenant, the owner being put off with a rent-charge. The worst proposals of this measure, however, were those relating to improvements made by tenants, exempted from rent, we have seen, by the Act of 1881. The Courts of Justice in Ireland had rightly declared with one voice, that improvements of this kind were not to be discharged from rent, unless they were the improvements treated by the Act of 1870, that is, rents might be charged on tenants' improvements, if these did not fall within the definition laid down by that law, or if they were outside the limitations it had imposed, in order to shut out obsolete and unjust claims, which might harass and do grievous wrong to landlords. All this was completely changed by the new measure; the definition of improvements was wholly altered, in order to secure their being exempted from rent; the restrictions in point of time, and many other matters, as regards claims for improvements, were largely swept away, and the power of 'contracting out' of such claims was still further abridged. The whole law, in a word, as to tenants' improvements, as these were to create exemption from rent, was placed on altogether a new basis; this was detrimental in every respect to the landlord, and gave advantages to the tenant, in my judgment, utterly unjust.\*

The Bill contained other provisions, all in the same direction, that is, for the advantage of the Irish tenant, and to his landlord's loss, especially one relaxing the law as to the subdivision and subletting of farms, an inveterate and very pernicious practice. It introduced, also, a new principle, on which I shall say some words afterwards, with respect to another experiment on the Irish land, that is, what is called Land Purchase, under conditions, not

\* For an elaborate account of the Act which was the result of this Bill, see the work of Mr. Justice Barton, 'The Land Law (Ireland) Act, 1896.'



thought of before, until they were laid down by a Conservative Government. The measure was hustled through the House of Commons with such indecorous haste, that Sir Edward Carson, now a law-officer of the Crown, walked out of that Assembly to express his disgust; it narrowly escaped defeat in the House of Lords, loyal as the Peers to Lord Salisbury are; indeed, though hardly debated, its vices were soon made manifest. It is unnecessary to point out what the general character of the Act is; it enlarged very considerably the sphere of the 'Three F's,' greatly increasing the wrong done to the Irish landlord, by doing away with the restrictions, placed by Mr. Gladstone, in 1870, on illegitimate claims in respect of improvements; its direct tendency was to reduce rents wholesale, and to promote more litigation between landlord and tenant; and if it encouraged tenants to make improvements on their farms, its plain effect, I will not say its purpose, was to 'improve the Irish landlords out of their estates,' the contemptuous phrase of a great master of Equity. Its mischief, however, went a great deal further; tenants making improvements are only exempted from rent, in respect of these, by this Act; they are not within the protection of the Act of 1870, if improvements of any kind are excluded by it; if a tenant, therefore, makes an improvement on his farm, which is not 'suitable' to it in a real sense, say, builds a mansion upon a petty holding, he will not be entitled to compensation, should he quit it, even though dispossessed for non-payment of his rent. But tenants, in these circumstances, like those I have referred to before, would assuredly proclaim that they had here a great and real grievance; and they would be relieved from it, doubtless, by another law, giving them compensation, perhaps, to their landlord's ruin. A dangerous principle is thus hidden within the Act; this will probably be asserted against the owners of ground rents, not only in Ireland, but in England and Scotland; and the law,

taken as a whole, has strengthened the claim of the Irish landed gentry to be indemnified, as was solemnly promised, for what they have suffered from the legislation begun in 1881.

While the Irish land system was thus being dealt with, on the side of occupation, during many years, experiments were made on it, likewise on the side of ownership. Resenting the legislation that had produced the 'Three F's,' Conservative politicians took it into their heads that Mr. Gladstone had 'created' 'dual ownership,' as they gave it the name, in Ireland; they insisted that this was simply an intolerable thing. Unfortunately Mr. Gladstone had no more 'created dual ownership' than he had created the mountains and lakes of Ireland; he had only developed the joint ownership, which the Irish tenant possessed in his holding, in thousands of instances, if he had developed it under the very worst conditions. This theory, however, at which Burke would have laughed with contempt, and which revealed the incapacity to understand Irish land tenure, ingrained, it would appear, in the English mind, was eagerly taken up and found much support; it was resolved to extend the process of converting tenants in Ireland into owners of their farms, by a method hitherto untried, and unknown in any part of Europe. Under the Church Disestablishment Act, and the Land Acts of 1870 and 1881, the State had advanced money to the occupier of the Irish soil, in order to enable him to acquire his farm; but it had made it incumbent on him to contribute part of the price; the transaction, therefore, was, in a real sense, a purchase. This, the only security for honesty and thrift, was taken away in 1885; Parliament passed an Act enabling the Irish tenant to become owner of his holding without paying down a shilling; the State was to advance the whole price; and the State was to be repaid by a terminable annuity, charged on the land, and extinguished at the end of less than half a century. This

terminable annuity was to be much less than a true rent, or even than a 'fair rent' adjusted by the State ; the transaction, therefore, was not a purchase, but a gift, akin to a bribe, another largess bestowed on the tenant class in Ireland, and another injury, as I shall prove, inflicted on the Irish landed gentry. This 'Land Purchase,' as it was falsely called, was to be voluntary on the part of landlord and tenant ; it was to be conducted on the footing of free contract, as had been the case under the preceding statutes ; the State was to obtain a guarantee from the landlord ; and Parliament voted £5,000,000 to carry out this policy.

Exactly as had happened in the case of the Encumbered Estates Act, this scheme of 'Land Purchase' was pronounced successful ; some scores of landlords sold land, some hundreds of tenants bought it ; the real nature of the proceeding and its inevitable results were ignored ; it was even boasted that 'dual ownership' would be got rid of, nay, that the Irish Land Question was being finally 'settled.' But when the first sum of £5,000,000 had been expended, and Parliament was asked to vote a second sum, it began to hesitate as to this dealing with the Irish land ; the British taxpayer demurred and growled ; with a true instinct he disliked the security ; it was found very difficult to procure the funds required, large as the majority was of Lord Salisbury's Government. His Ministry, however, adhered to the new policy ; and Parliament enacted a measure in 1891, which I have always thought unconstitutional in the highest degree, not to speak of the evils it was certain to produce. By this Act a sum of about £30,000,000 was made forthcoming to facilitate 'Land Purchase,' to abolish 'dual ownership,' and to change Irish tenants into owners of land ; this sum was to be secured by the methods before referred to, that is, by terminable annuities less than any equitable rent, and by guarantees on the part of selling landlords ; but, furthermore, a whole series of funds, devoted to Ireland, for Irish purposes, and

absolutely essential to her most important needs, were appropriated to make good any default on the part of 'purchasing' tenants, in the payment of annuities charged on their farms; and even the Irish counties were rendered liable in the last resort. Should, therefore, tenants in Ireland, who had acquired the ownership of their farms, refuse to pay those annuities on any pretence, say, through an appeal made by a Land League conspiracy—the manifesto against all rent cannot be forgotten—this extraordinary spectacle would then be seen: the State would have a right to seize upon the grants made for National schools and lunatic asylums throughout Ireland; these institutions would be shut up; children and madmen would be let loose through the country; and the owner of an Irish estate would have to pay for the dishonesty perhaps of his former tenants. The late Lord Randolph Churchill severely condemned this scheme; I agree with him it was utterly unjust, and but too characteristic of the contempt of the rights of Ireland, unhappily often displayed by British statesmen.

Only a sum, it will be observed, of about £40,000,000, that is, two of £5,000,000, and some £30,000,000 more, has thus been made available for 'Land Purchase,' this obviously could not transfer even a fourth part of the Irish land, valued, we have seen, by Mr. Gladstone at £300,000,000—in a remarkable speech in reply to Lord George Hamilton—and almost certainly worth from £150,000,000 to £200,000,000. The process of doing away with 'dual ownership' and making tenants in Ireland owners of their farms, having been pronounced by its authors slow, the Act of 1896, referred to before, enabled the landlord's guarantee to be dispensed with, and provided that, in the case of hopelessly embarrassed landlords, whose estates were being offered for sale in the Courts, the tenants should virtually have a right of pre-emption, thus asserting a principle, on which I shall dwell afterwards, and known as the 'Compulsory

Purchase' of the Irish land. I shall point out, in another chapter, the present and the inevitable future results of this policy of so-styled 'Land Purchase;' suffice it to say here, that, in my judgment, it betrays utter ignorance of the Irish land system, and of the customs and inclinations of the Irish peasant; that it proceeds on an essentially immoral principle, the bribery of a class to promote its welfare; that, from the very nature of the case, it cannot abolish 'dual ownership;' that, human creatures being what they are, it cannot, as is being already proved, establish a thriving body of occupying owners on the Irish soil; that it must create sharp and unjust distinctions in Irish land tenure, iniquitous to the landlord and to every tenant, who may be excluded from its benefits; that it must directly tend, as it is even now tending, to arouse a cry for a wholesale confiscation of Irish estates, the most shameful and wrongful Ireland has yet witnessed; and that so far from settling the Irish Land Question, it must necessarily unsettle it from top to bottom. As respects the legislation I have briefly described, on the side of the occupation of the Irish land—by many degrees the most important—I shall also comment upon its results in a subsequent chapter, after examining its administration by the tribunal it has set up. But a word may be said, in this place, on its essential character: from 1881 to the present time, it is absolutely without a precedent in civilised lands; it has trampled on economic science and the truths it teaches, as, indeed, its chief author made his boast; it has created a mode of land tenure in Ireland not in accord with fact, which has virtually deprived the Irish landlord of real ownership in his estate, has turned him into a kind of annuitant, and has virtually changed the Irish tenant into a kind of owner, but under conditions absolutely bad; its inevitable tendency was to cut down rents wholesale, without regard to the simplest justice; it established a system of mischievous litigation between landlord and

tenant, demoralising and increasing the division of classes ; it exhibited, on an enormous scale, characteristic contempt of Irish rights of property ; and finally, if Parliamentary pledges are to be fulfilled, and gross wrong is not to be consecrated by law, it has given the Irish landlord a great and legitimate claim to compensation from the State. As we survey this unwise and destructive medley of law, we are forcibly reminded of the words of Burke :—‘ I am unalterably persuaded that the attempt to oppress, degrade, impoverish, confiscate, and extinguish the original gentlemen, and landed property of a whole nation, cannot be justified under any form it may assume.’ \*

\* ‘ Letter to a Member of the National Assembly,’ vol. i. p. 478.

## CHAPTER V

### THE QUESTION OF THE IRISH LAND (*continued*)—THE ADMINISTRATION OF THE IRISH LAND ACTS

The administration of the Land Act of 1870 in the main good—Difficulty about claims for tenants' improvements—The administration of the Land Act of 1881, and of its supplements—The Land Commission and its Sub-Commissions—Allowances to be made for these tribunals—Principles which the Land Commission should have adopted in fixing 'fair rents'—The procedure and practice it ought to have established—It made mistakes as to both—The nature of the Sub-Commission Courts—This was objectionable in the highest degree—These Courts have, however unconsciously, done grave wrong to Irish landlords—Causes of this—Characteristics of their proceedings—They disregarded the principles they ought to have followed, and adopted faulty and erroneous methods—Different illustrations of these grave mistakes—The Land Commission and appeals as to 'fair rent'—Importance of this subject—Faulty procedure of the Land Commission in appeals—Valuers—The second Land Commission—Its procedure worse than that of the first—Theory of occupation right—This another wrong done to landlords—The Fry Commission and its report—Confiscation of the property of Irish landlords—The proofs of this—Apologies made for the Land Commission—The administration of the Land Purchase Acts.

I TURN to the administration of the new Irish Land Code, of which I have described the distinctive features. The County Courts of Ireland, I have said, were entrusted with the task of carrying out the Land Act of 1870; the principal duty of the judges was to determine rights, under the Ulster and analogous Customs in the south, and to declare the sums to be paid to tenants, when leaving their

holdings, for compensation for improvements, and in respect of disturbance. As evictions were by no means frequent, in the period between 1870 and 1879, the litigation before these tribunals, under these different heads, though by no means trivial, was not excessive; the applications on the part of tenants were not very numerous; there was ample time to consider the law, whether in the subordinate or the appellate Courts; and though there was much difference of opinion as to the amount of compensation to be given to suitors, the administration of the Act was not seriously impugned,\* and, on the whole, was reasonable and just. The most remarkable circumstance in the inquiries held before the Courts was, certainly, the extravagance of the claims put forward, on account of tenants' improvements, circumscribed as these were by the limitations of the law; everything in the nature of an agricultural work was called an improvement, from repairing an old fence to cleaning an old drain; hours and days were lost in endeavours to disentangle the truth, and to arrive at sound and legal conclusions. I could fill scores of pages with descriptions of demands of this kind, usually pressed with reckless and hard swearing; they ought to have been a warning, as unhappily they were not, not to break down the restrictions contained in the Act of 1870, and not to extend legislation, in this direction, against the rights of the landlord. I confine myself to a single example: I tried a case, in 1895, in which a tenant's claims, under the Act of 1870, were £1130; I cut these down to £164; after deducting £155 found due to the landlord, I adjudged to the tenant a sum of less than £10; and there was no appeal from the decision I pronounced.†

The Land Act of 1870 has been well-nigh superseded by

\* A Committee of the House of Lords sat, in 1872, to consider the administration of the Land Act of 1870. The report and the evidence were, in the main, in favour of the judges.

† *Rushe v. Whitney*, Roscommon Quarter Sessions, October, 1895.



the great measure of 1881, and by the legislation which has been its supplement. The administration of this part of the new Land Code, by many degrees the most important, was given, as I have pointed out before, to a wholly new tribunal, the Land Commission, and to Sub-Commissions dependent on it; a concurrent jurisdiction was given to the Irish County Courts; but they have had very little to do in this province. The principal work of the Land Commission has been to fix 'fair rents,' and to make statutory leases, 'fixity of tenure,' in a word, in a kind of disguise, and thus to give effect to the policy adopted by Mr. Gladstone in 1881. The three original members of the Land Commission, in all respects its directors, were the late Mr. Justice O'Hagan, the late Mr. E. F. Litton, and the late Mr. John E. Vernon; Lord Salisbury denounced these appointments in emphatic language, as being against the just rights of Irish landlords;\* the charge was not without plausible grounds at least, for Mr. Justice O'Hagan had been one of the 'Young Ireland' party, and Mr. Litton had been a strong tenant-right advocate. These two gentlemen, nevertheless, were most honourable men, and capable, if not very distinguished, lawyers; Mr. Vernon was an excellent and experienced country gentleman, if, in politics, of the Liberal faith; and as all three have long ago passed away, it would be unjust to make charges of illegitimate conduct, even if they may not have been wholly free from unconscious bias. Great allowance ought to be made, in common justice, for the Commissioners in the situation that had been made for them, and regard being had to their most arduous duties.

\* Lord Salisbury in the House of Lords, August 1, 1881: 'They are all three strong Liberals, with strong views of tenant right. . . . There is no doubt that all three are appointed with a strong prepossession in favour of views which are advocated by the representatives of the tenantry in Ireland, and which are deprecated by the landlords. . . . It is not the relegation of landlord and tenant to an impartial tribunal.'

To fix 'fair rent,' even approximately, was difficult in the extreme ; as Judge Longfield predicted many years before, and every well-informed Irishman knew, the adjustment of rent, through the agency of the State, would inevitably cause a general lowering of rents. Again, the Commissioners were, from the outset, harassed by a rush of applications to fix 'fair rents ;' these came in, within a few weeks, in thousands ; they were tempted, therefore, to set about their work at once, without taking the careful precautions, or entering into all the considerations, the nature of their duty required. Two circumstances, also, no doubt, had effect on their minds ; the Land League was creating a Reign of Terror, and destroying the property of the Irish landlords ; the Commissioners probably hoped that they would weaken the power of the League, by, so to speak, bidding against it, and cutting rents down. Above all, the Land Commission, like the Encumbered Estates Commission, was a tribunal set up to carry out a policy, that is, in word, to abate rents ; and all experience, Irish experience notably, proves that such a body of men usually fulfils its mission.

Mr. Gladstone, we have seen, had expressed a belief that 'fair rents,' as a rule, would be fixed by contract ; that the Act of 1881 would produce this result ; and that this part of the work of the Land Commission, accordingly, would not be very great. Unquestionably, too, with his leading followers, he was convinced that rents in Ireland would not be largely reduced ; \* it is important to bear

\* Mr. Gladstone, July 22, 1881 : 'I shall be bitterly disappointed with the operation of the Act if the property of the landlords of Ireland does not come to be worth more than twenty years' purchase on the judicial rent.' Mr. W. E. Forster, same date : 'I think the final result of the measure will be, within a few years, that the landowners of Ireland, small and large, will be better off than they are at this moment.' Lord Carlingford, August 1, 1881 : 'My Lords, I maintain that the provisions of this Bill will cause the landlords no money loss whatever. I believe that it will inflict upon them no loss

this distinctly in mind, regard being had to subsequent events. These anticipations were to prove vain ; but the Land Commissioners possibly may have shared his views, and may have resolved to act upon them, before they first addressed themselves to the task of 'fixing fair rents.' After experience, it is easy to be wise ; but we can now clearly discern what they ought to have done, considering the heavy work they were soon to find imposed on them. Their first duty should have been to establish some standard, which would make a reasonable criterion of rent ; the means to accomplish this end were not wanting. Mr. Law, the Irish Attorney-General of Mr. Gladstone, one of the most distinguished lawyers of his day, and afterwards a holder of the Great Seal of Ireland, had made a definition of 'fair rent' in the House of Commons ; 'a fair rent was to be a competition rent minus the yearly value of the tenant's interest in the holding ; that was what was intended, and anything else would be monstrously unjust.'\* For some reason that has not transpired, this definition did not find a place in the Act ; but the authority of its framer was great ; it must have been known to the Land Commissioners ; had they adopted it, and based their decisions upon it, things would have been very different from what they are at the present time. But there were other tests to indicate a standard of rent, to be regarded at least, if not conclusive. The valuation of the lands of Ireland made for the assessment of rates, Griffith's valuation, as it was commonly called, which Parnell had made a measure of 'fair rent,' would certainly have been of real use, though it varied greatly in different counties ; and the Commission appointed by Mr. Gladstone, only a few months before, had, I have said, reported, that Ireland, as a whole, was in

of income, except in those cases in which a certain number of landlords may have imposed upon their tenants excessive and inequitable rents.'

\* Hansard, vol. 260, p. 1399.

no sense an over-rented land. There was another consideration, as regards Irish rents, which the Land Commissioners ought to have borne in mind. The rents on the estates of the great landlords, and of the gentry of old descent, were, as a rule, low; the rents of the purchasers under the Encumbered Estates Acts were high, nay, excessive, in not a few instances.

Other circumstances, moreover, of great importance, ought to have been taken into account, with respect to this subject. The rental of Ireland was not as high as it had been before the Great Famine; where rents, therefore, had not been increased, and had been regularly paid for a long series of years, there was the strongest possible presumption that these would be 'fair.' Again, the material progress of Ireland had been great during the forty preceding years: the wages of labour had, indeed, risen; but owing to the introduction of good farm machinery, the cost of production, in agriculture, had diminished; the extension of the railway system had opened new markets, and had brought even Connaught within a few hours of Great Britain; steam navigation had multiplied and improved; the modes of husbandry and the breeds of stock of all kinds had become infinitely better than they had been; and prices of late had been very high. These were all elements to be regarded in the determination of 'fair rent;' they ought to have been examined with care; and inquiries on these matters should have extended over a long space of time. Moreover, as the Land Act of 1881 discharged improvements made by tenants from rent, as these were defined and limited by the Act of 1870, the greatest pains ought to have been taken that claims for exemption should be strictly dealt with, and not permitted to run riot, especially as it was notorious that demands of this kind, made under the law already in force, were usually excessive, supported by untrue statements, and by no means easy to resist and disprove. Another fact, also,

of the gravest moment, ought to have been thoroughly considered, as regards this question. As improvements made by tenants were not to be charged with rent, it was but equitable that the lands they might hold should be valued as if in their normal state ; that if these had been deteriorated, either through wilful misconduct, or gross neglect, their occupiers were not to make profit of their own wrong ; that deterioration, in a word, was not to be allowed to work rent down, and was to be taken into account, in adjudicating upon 'fair rent.' This was the more necessary because it was well known that numbers of farms in Ireland had been more or less run out ; and especially because, as in the case of the ryot of Bengal, under the Permanent Settlement of Lord Cornwallis, an Irish tenant would be strongly tempted to injure his lands, if he believed that, when 'a fair rent' should be fixed on them, he would be permitted to take advantage of his own default. It should be added that, in the fixing of 'fair rents,' the large sums which, in many instances, Irish landlords had laid out in improving their estates, notably since the years that succeeded the Famine, ought, as a matter of course, to have been kept in mind.

These were the general principles which should have guided the Land Commission in approaching the question of fixing 'fair rent.' There was nothing in the Act of 1881 to prevent the Land Commissioners, as a Court of first instance, adjudicating directly in cases of this kind, or to compel them to refer these to their Sub-Commissions ; indeed the plain intention of the law was in a contrary sense. Had the Land Commissioners adopted this course—and this, I venture to say, was their obvious duty—they would, no doubt, have considered the questions before them at length, and with close attention ; have made their inquiries go back many years, and have laid down, in elaborate judgments, the maxims and rules to be applied in the fixing of 'fair rent.' The evidence that would have

come before them would have been of two kinds : that which depended upon the statements of valuers, on the side of landlords and tenants alike ; this, of course, would be of great importance ; but it should have been borne in mind that it would be biassed evidence ; and that, in the existing state of Ireland, and of Irish opinion, the statements of tenants' valuers would require to be strictly watched. The other head of evidence was of a much more trustworthy kind ; it was indicated by the circumstances of the cases being heard, and was necessarily suggested by the inquiries themselves. This class of evidence would be desired from a consideration of the rate of rent in the neighbourhood or even of adjoining lands, in a word, of what may be called the market price of rent ; from an examination of what a reasonable rent would be, payable by a solvent tenant to a fair-minded landlord ; and even from a review of rent fixed by the competition of bidders for land, these circumstances, in every given case, being, of course, controlled by a due regard being had, in the words of the law, for the 'tenant's interest.' There was another and very important test ; the sums paid in Ulster and elsewhere on the transfer of farms were usually large, sometimes not less than a third or even a half of the value of the fee simple ; and as these sums were always subject to the existing rents, the first charges on the lands being sold, this would afford a strong presumption that such rents would be 'fair.' No doubt the Act of 1881 declared that such payments were not to be taken into account, *per se*, and apart from other considerations in the actual fixing of rent, so far as regards a given farm ; but the law certainly allowed—and it has always been so held—that payments of this kind might be kept in view in forming, generally, an estimate of what a 'fair rent' should be.\*

\* The nature and character of these two classes of evidence has been thus well described in the Report of the Edward Fry's

The Land Commissioners, but from a different point of view, might have learned something from Parnell in this matter. They were, no doubt, harassed by the prospect of the task before them ; but had they taken a certain number of 'test cases,' and investigated them as a Court of first instance, they would have laid down principles to be followed in the fixing of 'fair rent ;' have explained these in well-considered judgments, going over the whole field of inquiry ; and, so far as in them lay, have tried to do justice. Even if they had not adopted this course, one of their members, as the Act of 1881 provided, might have taken part for some time with their subordinates in the

Commission, p. 18 : ' If the matter were perfectly open, it appears to us that two independent lines of evidence might be pursued by a person inquiring what is the fair rent to be fixed for a holding. One class of evidence may for shortness be called the popular evidence ; the other the technical. The popular evidence would comprise the prices obtained by the tenant for a sale of his interest or *bond fide* offers which he had received for it, evidence of the letting value or judicial rents of similar holdings, evidence of the sums paid for conacre or agistment, evidence of the long and punctual payment of a real rent, or of the long arrears of a nominal rent, and evidence of the prosperity or poverty of the persons who had successively lived off the produce of the holding. The technical evidence would be that more familiar to professional valuers. They would inspect the land, ascertain the acreages of the different classes of land on the farm, and what they would produce or carry ; they would consider the quantity and value of the produce and the cost of production, and the shares of the surplus remaining after the cost of production divisible between landlord and tenant respectively. The popular evidence would be affected by all the motives which make men in Ireland desirous to occupy land ; the technical evidence would assume the desire of making a money profit out of the occupation of land as the sole motive of such occupation. The eighth section of the Act of 1881 seems to admit of both lines of evidence with a single exception. It provided that in fixing the fair rent consideration should be given not to some but to all the circumstances of the case, the holding and the district, with the single exception that (sub-sec. 10) the price paid for the tenancy otherwise than to the landlord or his predecessors was not of itself, apart from other considerations, to be taken into account ; though, conjoined with other considerations, it still remains admissible.'

adjustment of rent ; this would have been in accord with Mr. Gladstone's assertions that the Land Commission was to be the real arbiter of rent. Unfortunately the Commissioners acted quite otherwise ; their conduct, palliate as you may, was an abdication of a plain duty, on the plea that they were overwhelmed by the work before them. Not one of them ever sat in a Court of first instance to fix 'fair rents ;' they delegated this the most important of all their functions to their Sub-Commissions, to which they thus committed the charge of adjusting rent throughout the whole of Ireland. These Sub-Commissions formed Courts, each composed of three members, one a legal Commissioner and two laymen ; the Sub-Commissioners were nominees of the Government, whether appointed on the recommendation of the Land Commission or not is not certain ; the only qualifications for the legal Commissioners were that they should be barristers or solicitors of six years' standing, and for the lay Commissioners that they should have some knowledge of land. These were strange tribunals to deal with property worth hundreds of millions ; but this was only a part of what must be called a scandal most discreditable to those responsible for it. The Sub-Commissioners, one and all, were much underpaid ; their salaries were inadequate to secure fitting men ; and, one and all, they were at the sufferance of the men at the Castle, liable to be dismissed at a moment's notice, and without the independence which is the best guarantee of justice. Some of the Sub-Commissioners, indeed, were only paid for the job, by the day ; they had, therefore, a direct personal interest to reduce rents, in order to make work for themselves and to retain their places. Even in Ireland such tribunals were never set on foot, since Cromwell assembled his Courts of Claims to give their sanction to his huge forfeitures ; that they were ever thought of is one of the many proofs of the disregard shown to property in land in Ireland. No wonder that it was



significantly remarked : 'The whole spirit of our judicial institutions suggests that officers with such extensive powers should be selected with the greatest care and with reference to their possession of high qualifications, and that they should be placed in a position of independence, and should, so far as possible, be lifted above the suspicions that surround them.'\*

Sixty or seventy officials of this type—the number was afterwards largely increased—were thus, in the significant words of one, 'let loose over Ireland' to deal with estates ; it is very remarkable that they have never received instructions from the Land Commission how to perform their duties. The procedure of the Courts of the Sub-Commissions was, under existing conditions, as well devised as could be fairly expected. The three Commissioners, who formed a Court, nearly always sate together, and heard the evidence brought before them as to what were 'fair rents ;' the legal Commissioner decided questions of law ; and, this evidence having been taken, the two lay Commissioners inspected the farms, the subjects of the previous inquiries, and having conferred with their legal colleague, determined with him what should be their 'fair rents.' This was the ordinary if not the universal practice ; if some deviations have been made from it, these cannot be deemed of very great importance. Grave complaints have been made, in not a few instances, of the lay Commissioners, when engaged in examining lands ; it has been said that they often neglected and 'scamped' their work ; but these charges have been hardly, if at all, sustained ; my own experience—and it is tolerably large—is that the Commissioners performed their functions with diligence and care, and sometimes gave proof of real knowledge of husbandry.†

\* Report of the Fry Commission, p. 13.

† Ibid., p. 14 : 'Some specific charges of misconduct or negligence have been made against lay Assistant Commissioners and Court valuers ; as *e.g.* visiting the land without due notice to the landlord ;

But it was utterly impossible that tribunals of this kind, not composed of experts of a high order, dependent upon the breath of the Castle, without regulations to direct their conduct, and acting, without concert, in many districts, could adjust rent in a satisfactory way, and in conformity with true methods, especially as the work they had to do was excessive ; indeed, they sometimes fixed 'fair rents' by dozens in a day. It was equally impossible that the Sub-Commissions—and to do their members justice they never made the attempt—could take into account all the manifold and far-reaching elements which enter into the question of 'fair rent,' and could set forth, in exhaustive judgments, the principles applicable to a most intricate problem. On the contrary, as a rule, and no doubt wisely, they avoided topics which might have tasked the highest judicial powers ; they decided the cases before them summarily, and with little reflection, certainly without the protracted examination required to establish settled rules and doctrines. And the result has been that they disregarded, and even set at nought, a whole series of considerations, of supreme importance, with reference to the fixing of 'fair rent ;' and, however unconsciously and innocently, they have been the authors, in the first instance at least, of the gravest injustice, and of wrong, done wholesale, to the landed gentry of Ireland.

To make this plain, let us glance back at the principles which assuredly ought to have been kept in view, in coming to sound conclusions on the subject of 'fair rent.' It will be seen that the Sub-Commissioners either gave little or no attention to these, or directly violated them in, perhaps, tens of thousands of cases. They have never attempted

visiting the holding when lying under snow or water, or when suffering from prolonged drought, and refusing to wait whilst a trench was dug to show the condition of the alleged drainage. We have investigated many of these cases, and the explanations given have generally been satisfactory to us.'

to establish some kind of standard, which would form a general measure of 'fair rent;' they have completely ignored the definition of Mr. Law, precise and most valuable as it was; they have treated 'Griffith's valuation' as though it did not exist; they have regarded the Report of Mr. Gladstone's Commission, declaring that Ireland was not excessively rented, as mere waste paper; they have apparently taken hardly any account of the well-known distinction between the low rentals of the great and old landlords, and the rack-rents too often exacted by purchasers under the Encumbered Estates Acts. So, too, it would seem, they have refused to consider the strong presumption that rents would be 'fair' if not raised during a long series of years, and if reasonably well paid, within that period; and they certainly have given no real weight, as an element in adjusting rent, to the agricultural progress made by Ireland since the Great Famine. Innumerable complaints have been made against their decisions as to the exemption of tenants' improvements from rent; but my belief is that they gave great attention to this subject; the wrong that has been done was owing to the difficulty of the law, and of its application to given cases; and the law, besides, was not, I think, just. On the correlative and most important question of the deterioration of farms through the default of tenants, they have hardly ever inquired into this; they have repeatedly done the landlords wrong; they have made grave and palpable mistakes; and in many instances they have made no allowances for the expenditure of landlords upon their estates. Having thus refused to follow the principles which ought to have been their guide, they have widely deviated in the actual fixing of 'fair rents' from rules and methods they should have observed and made effective. They have given too much weight to the class of evidence that was least important and most open to question; they have attached little and sometimes no value to the class of evidence by

far the most trustworthy, and that ought to possess the greatest influence. This has especially been the case, as we shall see, with respect to the sums paid on the transfer of farms, the strongest possible indication that their rents must be 'fair,' on the ordinary principles of human nature, and giving the purchasers credit for the simplest common sense.

These are grave charges against quasi-judicial bodies ; let us see if they are not completely justified. The Sub-Commissioners, I have said, have taken no heed of Mr. Law's definition of 'fair rent;' but they have acted as though they set it at defiance ; they have ignored the principle of competition in fixing 'fair' rents. Unquestionably, as Mr. Law pointed out, a deduction should be made from a competition rent, regard being had to 'the tenant's interest,' that is, to his rights in respect of improvements, and perhaps to his rights on account of his tenure, a lease renewable every fifteen years, when a 'fair rent' is being fixed on his farm ; but why the very idea of competition, that is, of market value, was to be excluded as an element in estimating 'fair rent,' is what men of common sense have never understood. This, in fact, was a portentous mistake, with consequences of a far-reaching kind ; you might as well argue that because two partners had an interest in a fee simple estate, or two peasants had each a share in a cow, the price of the land or the cow was not to depend on what would be given for it at an auction mart or a county fair. Yet this was a position the Sub-Commissions have always taken ; they have always insisted that competition had nothing to do with 'fair rent.' The evidence on this subject is conclusive ; I can only take a few samples from the statements of a cloud of witnesses, who really seem to make a boast of their faith. Colonel Bayley, a Sub-Commissioner of large experience, has laid it down that the 'difference between a competition rent and the fair rent would be more than 20 per cent. ; it would,

I think, be more than that ; there would be between 30 and 75 per cent. difference between the fair rent and the competition rent.' \* Mr. Roberts, another Sub-Commissioner, has deposed to much the same effect : ' Decidedly, I believe that if the land was put in the market it would bring 25 per cent. more than the rent I put on.' † So, too, Mr. Bailey, a legal Sub-Commissioner, very much respected, has alleged : ' It would be most misleading to take the evidence of letting value in the neighbourhood, thus bringing in competition value, which we rigorously exclude in fair-rent cases.' ‡ Mr. Bomford, a well-known Sub-Commissioner, has said, in much the same sense : ' We do not take the competition rent, and cannot take it into consideration, when fixing what the fair rent should be. Then you utterly exclude, when you come to the fixing of the fair rent, the element of competition ?—Yes, except in one matter, when we have town parks.' §

Let us now see what distinctions, in fixing ' fair rents,' the Sub-Commissioners have drawn between landlords whose rentals were low and landlords whose rentals were really high ; and how they have dealt with rents, paid for a long space of time, without having been raised ; this is a fair index of the equity of their proceedings. It should be remarked, at the outset, that it soon appeared that rents had only been increased in comparatively few instances, going back over a series of years ; yet, as a rule, nearly all rents were indiscriminately reduced. No attempt has been made, by any official of the Land Commission, to answer this damaging charge made, in 1897, at a judicial inquiry held upon the subject : ' The result of that calculation, the accuracy of which cannot be challenged, shows

\* Evidence taken by Mr. Morley's Commission on the Irish Land Acts, p. 236.

† Ibid., p. 397.

‡ Evidence taken by the Fry Commission, p. 131.

§ Ibid., p. 208.

that, as the result of all the cases that were heard, in only 8 per cent. of them was any increase of rent for many years prior to 1881 proved. But whether the Sub-Commissioners are dealing with an estate on which for centuries the rents had remained unchanged, and on which the tenants had been fairly treated, or whether they were dealing with estates that had come into the hands of speculators by purchase in the Landed Estates Court, in all cases the average result was the same. They deducted something between 15 and 20 per cent. from the existing rent, no matter how long it had existed, and no matter upon what estate it was being paid.\* This significant evidence, too, points to the same conclusion: 'There is nothing to justify the reductions that have been made in the rents of good landlords, who did not raise their rents in the good years. In fact, the landlords who did raise their rents got off a great deal better, at the hands of the Sub-Commissioners, than the good landlords who did not raise them.'† And Mr. Lecky, a calm-minded observer, if there ever was one, has added these striking and pregnant remarks: 'The landlords who have suffered least have probably been those who simplified their properties by the wholesale evictions, the harsh clearances, that too often followed the Famine. Next in the scale come those who exacted extreme rack-rents from their tenants. These rents had been received for many years, and though they were ultimately reduced more than rents which had been always low, they still, in innumerable instances, remained higher than the others. The large class who regarded land simply as a source of revenue, and, without doing anything harsh, or extortionate, or unjust, took no part in its management, have suffered very moderately. It is the improving landlord, who took a real interest in his estate, who sank large sums in draining and other purposes of

\* Evidence taken by the Fry Commission: Mr. Campbell, p. 41.

† Ibid., p. 682.

improvement, who exercised a constant and beneficent influence over his tenants, who has suffered most from the legislation that reduced him to a mere powerless rent-charger, and, in most cases, rendered the sums he had expended an absolute loss.' \*

The Sub-Commissions dealt with the subject of the exemption of tenants' improvements from rent, on the whole, as fairly, I think, as could be expected; and on the different questions of law that arose, appeals ran from them to the Land Commission, which usually investigated these cases at length. But this part of the law, really an excrescence on the Act of 1881, was unfair to the landlords, in the circumstances in which they were placed; they were confronted by innumerable and often obsolete and worthless claims, which they had only seldom the means of refuting; and if the demoralisation and false swearing under the Act of 1870 was bad, they were infinitely worse under the Act of 1881. A witty Irishman, indeed, once said that he could wish no severer punishment for Mr. Gladstone than to see him in a Sub-Commission Court listening to those wrongful statements; the mischief has, of course, been aggravated since the Act of 1896 has made the basis for the exemption larger and more ill-defined. The Sub-Commissions, I have said, were gravely in error, almost, as a rule, with respect to the deterioration of land, as an element to be considered in fixing rent; in this respect gross injustice has been done to landlords. There is scarcely any proof that, even in a single instance, the Sub-Commissioners valued land 'for fair rent,' as in its normal state; and yet, assuredly, this was what ought to have been done, if a premium was not to be put on misconduct, and because farms had been injured and exhausted in hundreds, throughout Ireland. The deterioration was usually of two kinds—wilful waste committed in order to work down rent, and passive waste

\* 'Democracy and Liberty,' vol. i. pp. 205, 206.

caused by negligence and bad farming. Out of many instances, under the first head, I shall refer to one ; the Sub-Commissioners usually gave little or no attention to wrongs of this kind ; in this instance they enabled the tenant to make money by his own misdeeds ; they reduced the rent nearly 30 per cent. : 'The dykes were full of stuff and choked, and the sluice-gate, which we had repaired at our own expense, was all choked up, and the water had been left on the land as long as it could stay on it. I complained and remonstrated with the tenant. I sent for Madden, and in Mr. Lyle's presence I stated this to him. His answer to me was that he was not such a damned fool as to have his land looking well when the Commissioners came to look at it.

'SIR E. FRY: Did that case come before the Sub-Commission Court?—It did.

'Did you give evidence of what the tenant said?—Yes, sir. . . .

'MR. CAMPBELL: I will tell you, sir, what they did.

'How much did they reduce the first judicial rent?—They reduced the first judicial rent; they cut it down from £70 10s. to £51.\*

As for passive waste, that is, the bad cultivation of farms, the proof is conclusive that it has been seldom, if ever, considered by the Sub-Commissions in fixing 'fair rents.' If we bear in mind that many thousands of acres in Ireland have been well-nigh destroyed by the burning done by tenants, and that hundreds of thousands have been run out by slovenly farming, the injury thus done to landlords has been enormous, especially as tenants' improvements have been exempted from rent against them ; the 'candle,'

\* Evidence taken by the Fry Commission, p. 692. As a County Court judge I have a concurrent jurisdiction, happily seldom exercised, in fixing 'fair rents.' I had a somewhat similar case before me some seventeen or eighteen years ago, and I adjourned the hearing for four years to allow the land to recover. I believe I am the only official who did anything of the kind until quite recently.



it has been justly said, 'has been melted down at both ends.' I cite two instances, out of hundreds, of the injustice thus done; it has been proved over and over again that, in the case of two adjoining farms, in all respects of the same natural quality, the rent on that which was deteriorated was fixed at a much lower rate than the rent on that which was in good heart; in other words, the landlord was despoiled of the difference, and the tenant had the benefit of his bad husbandry. I take, almost at random, a case in Ulster: 'The Commissioners always value the land as they see it. I have two cases on my property in one townland. One tenant was an industrious, hard-working man, who had his farm in very good order. The second tenant, his wife had died, he was in poverty, with a lot of young children, and he himself was not quite "all there." These two holdings came at the same time before the Sub-Commissioners, and the rents were cut down in each case. When the thing was over, I said to Quinn, who was one of the tenants, "Are you satisfied with your reduction?" "How can I be satisfied," he said, "when my rent is at the same rate as Hurson's rent?" I looked at the return and saw he was quite right. . . . The deteriorated farm was cut down considerably more than the cultivated farm.' Another remarkable case occurred in the west: 'I had a case, I think decided this year; a farm that was divided between two sons fifteen or twenty years ago; the father divided the land before I came into the management of the property.

'Did they get an equal portion? was it divided into halves?—Into halves, and paid an equal rent.

'Before the Act of 1881?—Before the Act of 1881.

'And was the land of uniform quality?—Yes.

'Had one of these men, before he went into Court, greatly deteriorated the land?—Yes.

'Had the other attended to it?—He had attended to it; he looked after the land very well indeed.

‘What reduction did the man who had deteriorated his half get?—The man who had deteriorated his half got  $17\frac{1}{2}$  per cent. reduction.

‘What did the other get?—The other got  $7\frac{1}{2}$  per cent.

‘The industrious tenant got  $7\frac{1}{2}$ ?—He got  $7\frac{1}{2}$ .’ \*

This was obviously gross and crying injustice ; but two apologies have been made for acts of this kind. It is said that were a deteriorated farm rented as if it were in a normal state, the tenant could not afford to pay the ‘fair rent,’ in other words, the landlord is to be despoiled for the tenant’s neglect. It is said again that the Sub-Commissioners are bound to value the land as they find it, and cannot estimate it at its intrinsic worth, that is, they are under no obligation to ascertain the truth, and do their duty. Yet this sophistry has been gravely put forward as a justification for palpable wrong, through which the property of landlords has been filched away wholesale : ‘The land to this day has suffered a very serious deterioration in value ; but we did not deal with that as against the present tenant. . . .’ † ‘Have you frequently asked the Sub-Commissioners why they do not attach sufficient importance to deterioration?—No, but I heard them saying one reason was that if they put the rent of the farm as if it had been fairly treated, the tenant would not be able to pay that rent now in the deteriorated state.’ ‡ The general result of these proceedings as regards exhausted farms has been thus described : ‘My view with reference to deterioration is this. Bad tenants, who had ill-treated and worn out their land, undoubtedly, in my opinion, have obtained larger reductions than they would have got had they farmed well. Probably the reason is that were the Land Commissioners to put a rent on the land according to its natural capacity, before a deterioration, it would be

\* Evidence taken by the Fry Commission, p. 836.

† Evidence taken by the Morley Commission, 1894–95, p. 333.

‡ Evidence taken by the Fry Commission, p. 952.

an impossible rent for a broken-down bad tenant to pay. This stereotypes the rent in such cases at a figure unfairly low to the landlord; tends to lower the standard of fair rent generally; is a premium on bad farming; and places tenants under a serious temptation to ill-treat their land, so as to secure a larger reduction from the Land Court than otherwise could be obtainable.\*

The Sub-Commissions appear to have disregarded the just rights of landlords in another important respect. Unquestionably, in the great mass of instances, as is inevitable when the land is held in small farms, the Irish tenant had made the improvements on his holding; but the landed gentry, as I have pointed out, had done a good deal since the Great Famine. There is nevertheless cogent evidence that, in 'fixing fair rents,' the Sub-Commissions took hardly any account of the expenditure of landlords under this head. In the case of the estate of the late Mr. Talbot Crosbie, one of the best breeders of prize stock in the Three Kingdoms, and a country gentleman of parts and intelligence, these significant facts were conclusively proved: 'Table E gives the cases of eight holdings upon which there was an expenditure by the landlord of £1936?—Yes.

'The old rent was £688?—Yes.

'That was reduced by the Sub-Commissioners to £493?

—Yes. A reduction of about 30 per cent.

'Notwithstanding the outlay by the landlord in the interval of nearly £2000?—Yes, that is it.

'Table F is a list of eleven farms, on which there was practically no expenditure by the landlord?—Quite so, no recent expenditure. That is, between 1863 and 1887?—There was a good deal done in the famine time, but I did not take account of that.

\* Evidence taken by the Fry Commission, p. 607. The procedure of the Sub-Commissions has, since 1896, been somewhat improved with respect to deterioration and waste, but many years too late.

'You had no evidence in these eleven cases of expenditure for many years prior to the fixing of the rent?—No. In these cases the old rents tot up to £361?—Yes. And the reductions only brought them to £280?—A reduction of 18 per cent.

'In other words, on the unimproved farms the reductions only average 18, while on the improved farms they went as high as 30 per cent.?—Quite so.

'SIR E. FRY: Were these two sets of farms different classes of farms?—They were practically of the same class.\* In the same way, in the case of the estate of Lord Leconfield, a great and excellent landlord in the County Clare, the Sub-Commission made no real allowance for a sum of £20,500 expended on twenty-seven farms. 'Am I right in saying that from 1852 to 1881 there was spent by Lord Leconfield £20,500 in these twenty-seven cases?—The return speaks for itself. That is the result of it.' 'No. 4: As an example of the reductions of the Sub-Commissioners were the rents put back to what they had been in 1852?—Very nearly. There is a difference, I think, of about  $\frac{1}{2}$  per cent.?—About  $\frac{1}{2}$  per cent. The rent in 1852 was £2524, and the judicial rents on these farms was £2632.'†

I pass on to the methods pursued by the Sub-Commissioners in actually fixing 'fair rents.' As I have said, they usually heard the cases at length in Court; they usually devoted attention to them. I do not think they set much store on the reports of valuers, on the part either of landlords or tenants; they formed their decisions, as a general rule, on the inspections made by the lay Commissioners of the lands they visited. This was a much better method, as I shall point out afterwards, than that adopted by their superiors; but obviously inspections of this kind made by officials without local knowledge of the farms, which they

\* Evidence taken by the Fry Commission, p. 677.

† Ibid., p. 842.

examined and valued, could not be a sufficient, or a satisfactory, way to fix 'fair rents.' The great error, however, made, in this matter, by the Sub-Commissions—and in this respect they had the countenance of the higher tribunal—was that they had little or no regard for the evidence which in adjusting rent was assuredly of the greatest importance. They rejected, we have seen, the principle of competition in adjudicating on rent; in fixing the 'fair rents' of holdings before them, they refused to consider the rents of the neighbourhood and of adjoining lands, that is, to consider the price of the market. Yet this was but a trifling compared to their capital mistake, one that, indeed, can hardly be explained: in investigating the subject of 'fair rent,' they would not take into account sums paid on the transfer of farms, that is, their tenant right, in other words, as an indication of what ought to be their 'fair rents.' If we bear in mind, as I have said before, that these sums were given subject to the existing rents, which always formed the first charge on the lands, it is most difficult to understand, as we have seen, how this circumstance did not create a very strong presumption that the rents in question must be 'fair' from the very nature of the case, assuming the Irish tenant to be a rational being. The sums paid for this tenant right were sometimes enormous, not uncommonly equal to one-third or one-half of the value of the fee; I illustrate my meaning from the evidence, taken with reference to the estate of Lord Downshire, one of the largest and best managed in Ulster: 'What would you say the tenants' interest would be worth on the Downshire estate?—Well, judging from the average prices obtained by tenants on transfers, my opinion is that the tenants' interest would be worth £1,000,000.

'On the Downshire estate alone?—Yes.

'Now, could that value in the tenants, or that interest in the tenants, exist, unless the rents at which they were holding were low rents?—No, the prices of tenant right are

incompatible with high rents. Does it in your opinion point to their being lower than the commercial rents?—Yes, they are lower.\* And will it be believed that on this very estate, in the case of thirteen farms, held at the rents fixed by the landlords, the tenant right realised £7296, and yet the Sub-Commission reduced the rents more than 20 per cent.? In other words, they declared that the old rents were not fair, though these lands, when transferred, fetched £7296 paid by their purchasers, subject to the rents in question!†

The Downshire was only one of many scores of estates in which the tenant right was exceedingly high, that is, the sums paid, at existing rents, on the transfer of farms, were very great, yet in all these instances this striking fact was not taken into account. It cannot cause surprise that, at a judicial inquiry held afterwards to review the subject, tenants' advocates endeavoured to exclude the evidence which, in the judgment of plain men of sense, affords almost a decisive indication as to whether given rents are 'fair.' It has been argued, however, that the price of tenant right, that is, the sums paid by incoming to outgoing tenants, on the sale of farms, at the current rents, ought to form no element in the fixing of 'fair rent;' it is only just to set forth the reasons. Mr. Bailey, the able legal Sub-Commissioner, referred to before, has explained them in this passage: 'Do you attend to tenant right in considering the fair rent?—No, we do not. The view we take of it is this. The tenant right paid for land is paid for something of an altogether different character from the rent of the land. . . . When a tenant sells his interest in his holding, he sells two things, first, the improvements on the holding, and secondly, his goodwill or share of the gross product of the holding. . . . When you put these two items together, viz. improvements and goodwill, it seems

\* Evidence taken by the Fry Commission, pp. 478, 476.

† Ibid., p. 476.

to me that the prices paid for tenant right are not at all remarkable. Then your view is that the price paid for tenant right throws no light on what the fair rent ought to be?—No, no light at all.' Mr. Bailey has added these significant words: 'The tenant does not buy at the rent which the tenement at present stands at, but he buys with a possible increase or reduction of the rent?—Quite so. And in latter years with the fall of prices he was buying with the expectation of a very considerable reduction?—Undoubtedly.'\*

The first of these arguments appears to me to be wholly irrelevant to the real question. Undoubtedly the tenant right of a farm represents the tenant's improvements and his interest in the land, and is completely distinct from the rent; and this is acquired on a sale by an incoming tenant. But the purchaser buys the tenant right, subject to the first charge, the rent; if the rent were excessive, or even high, either he would not buy at all, or he would pay a low price; when, therefore, we find the tenant right commanding very large sums, the conclusion is inevitable, that, taking human nature as it is, the rent must be in the nature of a 'fair rent.' The Sub-Commissions rejected a plain inference they ought to have drawn; that they refused to give weight to an all-important fact cannot be justified in any sense; and the result has been that in hundreds of cases they have done grave wrong to landlords. As for the second argument, it is very probable that in many instances tenants purchased farms in the anticipation of a reduction of rent; they speculated—a significant fact—that the Sub-Commissions would 'bear' the market; but even, on that supposition, this can hardly explain the huge sums paid for tenant right while the existing rents were current. For the rest, I refer to part of my own evidence given on this subject at the same inquiry; readers of ordinary intelligence may judge for themselves: 'The

\* Evidence taken by the Fry Commission, p. 129.

first question I ask the tenant is, "How much will you take for the land, £100, £200, £300; ten, fifteen, twenty, or forty years' rent?" But I never can get an answer. They say, "Oh, your honour, I am here to look after a 'fair rent,' and I am not going to tell your honour what I am going to ask for the land." However, I have a very shrewd notion. . . . You take into consideration in fixing the fair rent the price paid by the tenants?—Yes, the price which an incoming tenant would give, because I am not one of those who think that the Irish tenant is a fool; and when I find an incoming tenant giving ten, fifteen, twenty, and thirty years' purchase for a farm, I have a very shrewd suspicion that the rent is right.\*

It was under these conditions, and by proceedings of this kind, that the Sub-Commissions, bodies of ill-paid men, dependent upon the will of the Government, and constituted to give effect to a policy, were sent throughout Ireland to 'fix fair rents.' They had no assistance, we have seen, from the Land Commission; they often entertained very different views; but their uniform course was in the same direction; they indiscriminately abated rents, as they would abate a nuisance. In fact, they might have joined in the chorus of the doctors of Molière: 'Et saignare, et purgare, et clystériasaire;' they applied the same remedies to all their victims, and brought them nearly all into the same weak and low condition. But there was a right of appeal from the Sub-Commissions to the Land Commission; and this tribunal, certainly designed to have absolute power in the determination of rent, ought surely to have been expected to redress injustice. I approach a part of the subject on which the plain truth must be told, without making personal imputations of any kind. Appeals from the Sub-Commissions were numbered by many thousands; and, as I have said—an iniquitous provision of the Act of 1881—the decisions of the Land Commission on the subject

\* Evidence taken by the Fry Commission, p. 339.



of 'fair rent' was made final, at least as regards the rate of rent; there was to be no further appeal to a higher tribunal. I quote these significant remarks on this restriction: 'In an ordinary case, I need not tell you, sir, who are conversant with the procedure of Courts of Justice, a litigant, in a civil case, no matter how much the issue may be involved, has the right, if he thinks fit, of taking the case from one Court to another, until he reaches the highest tribunal of the land, the House of Lords. And as you know, there is a well-known case, which the House of Lords had to decide, in which the amount involved was one penny, an alleged overcharge on a railway ticket; but in these land cases, where there may be, and often is, a sum of £200, £300, or £400 a year involved, because in some of the large farms in this country there have been reductions of £300 and even of £400 in the rent, under the Act of Parliament they cannot go beyond the Head Land Commission, upon any question of value. That is the Act of Parliament whether it be right or wrong. There it is, and I am not here to discuss the policy of the Act. But when a rehearing is given by the Act of Parliament to the Land Commission, and when the Land Commission are constituted the final judges in such large and important matters, it is obviously of great importance that the final rehearing should be full, and in every respect what the Act of Parliament says it is to be, namely, a rehearing.' \*

The Land Commission sometimes heard these appeals at length, though usually their proceedings were summary in the extreme. The Commissioners occasionally pronounced well-considered judgments, on the difficult questions of law that came before them, especially as regards the exemption of tenants' improvements from rent; in several instances the results were curious. The lay Commissioner now and then dissented from his legal colleagues; his plain common sense rejected theories in

\* Evidence taken by the Fry Commission: Mr. Campbell, p. 25.

tenants' interests ; his decisions were more than once confirmed, on these points of law, by the highest Court of Appeal in Ireland, a circumstance of no slight significance. Nineteen-twentieths, however, of these appeals were conversant only with the amount of 'fair rent,' as to which the conclusions of the Land Commission could not be challenged. The Land Commissioners undoubtedly heard these cases, and sometimes had much evidence brought before them ; in tolerably many instances they varied the 'fair rents' fixed by the Sub-Commissions, if these variations were seldom important. But the Land Commission practically adopted, with scarcely a single exception, the errors of principle and the faulty methods which had marked the practice and the proceedings of the Sub-Commissions.\* They excluded the element of competition from the subject of 'fair rent ;' they never attempted to define 'fair rent,' or to establish a standard by which to gauge it ; they disregarded, to a considerable extent at least, the distinction between the rentals of the old and the new landlords ; they paid little or no attention to the fact that rents had been paid for many years without an increase ; they hardly ever took deterioration into account, or the expenditure made on their estates by landlords. And in the actual fixing of 'fair rents' they virtually followed in the wake of their inferiors ; they rejected, as a rule, the evidence that was most relevant ; they refused to consider the rents of adjoining or neighbouring lands, in a word, the price of the market, in determining rent ; above all, they gave scarcely any heed to the enormous sums paid for the tenant right of lands, as an indication that their rents were 'fair.' On all these particulars, in a word, supremely important as they were, they almost said ditto to the Sub-Commissions ; in these respects the appeals were well-nigh useless. It should be added that the

\* Mr. Vernon, the lay Commissioner, was, of course, not responsible for this.

animus of the head of the Land Commission was significantly exhibited on one striking occasion. When opening the proceedings of the Land Commission, Mr. Justice O'Hagan pointedly laid it down, that the object of the Act of 1881 was 'to make tenants live and thrive;' in other words, as Lord Salisbury indignantly remarked, to compel rent to gravitate to the level of the most indolent and worthless Irish peasant, and practically to discourage industry.

These considerations indicate, to some extent at least, the nature and especially the value of these appeals. But this was not all, or nearly all; there was a grave miscarriage of the simplest justice in this important province. Appeals, I have said, came in, in thousands; the work thrown on the Land Commissioners was immense; as one of their present successors remarked, 'If proper consideration' (had been) 'given to all the appeals you would' (have) 'wanted ten Appeal Courts to do it;'\* as was said again substantially, 'Appeals would have crushed the Land Commissioners, had they not been crushed by them.† In this position of affairs, the Land Commissioners, no doubt with no bad or sinister purpose, adopted what must be called a device, to enable them quickly to dispose of appeals, nay, almost in a summary way. They were empowered, under the Act of 1881, to appoint 'independent valuers' to examine lands, and to report on the subject of their 'fair rents;' it was never contemplated that statements of this kind were to dispense with the duty of hearing appeals in detail, and pronouncing solemn judgments upon them; but, practically, the Land Commissioners, in the great mass of instances, when adjudicating on appeals, as regards 'fair rents,' almost wholly relied on the reports of these valuers, who, be it observed, were in no sense witnesses, and were not subject to examination on the

\* Evidence taken by the Fry Commission, p. 156.

† Ibid., p. 615.

part of the suitors before the Court. In a word, the Land Commissioners did not exclude other kinds of evidence ; but unquestionably the dicta of the valuers, as a rule, determined the decisions they made on 'fair rent.' This expedient greatly accelerated appeals ; but it reduced the right of appeal well-nigh to a sham ; and this procedure was by many degrees more repugnant to justice than that of the Sub-Commissions. In an inquiry held before the House of Lords in 1882, an eminent member of the Irish bar remarked, 'It was the most unsatisfactory tribunal that I ever was before. What occurred was this : they took up the figures of the old rent, which we will say was £100, and the valuation £70, and the new rent £80. Then they took up the valuer's report, which was a document concealed from the parties. It was entirely for the information of the Court, and they turned round to me, as the landlord's counsel, the landlord being the appellant, and said, "Can you go on with this appeal in the face of this document?" and they would show me the document.' \* And in the inquiry I have often referred to before, another distinguished lawyer has said, 'I have been in cases where, in order to overcome the difficulty, I marshalled a perfect phalanx of witnesses, for the landlord, but it was all no use. They listened to them, I admit,—they suggested that I was wasting time, but I am not stating they did not hear them,—but in the end, in the morning, the announcement was made that the judicial rent was confirmed.' †

As the general result these appeals, as it has been said, 'were strangled ;' in thousands of instances they were withdrawn, the decisions of the Land Commission being final ; expedition was attained ; but it was only attained at the cost of gross wrong done to the landlords, a singular exhibition in a Court of Justice. I quote the following—and it should be borne in mind that the Land Commissioners

\* Evidence taken by the Fry Commission, p. 33.

† Ibid., p. 30.

have never attempted to explain this conduct, though the amplest opportunity was afforded, a few years ago: 'The extraordinary and anomalous state of things is that the valuers, not being assessors, do not sit with the Commissioners, and do not hear the evidence, and yet they are not witnesses in the proper sense of the term, because they are neither examined nor cross-examined. Common sense and justice revolt at the idea, when it is the duty of the Land Commissioners, upon the rehearing of a case, to sit and go through the proceedings *de novo*, that they should receive the evidence of valuers, which is not laid before the parties, and that those valuers should not be examined and cross-examined in the regular way. There is another matter to which I would refer. You will find, what is, indeed, what you might expect, that when the Commissioners go to Dublin, or Cork, or elsewhere, with a list of two or three hundred cases to be heard by them, involving, it may be, thousands of pounds a year of rent, that list is gone through in two or three days, and why? Because all the parties present know that they are taking part in what really is a solemn farce, and that what will happen in the morning after the hearing of their case is just this: John Brown, landlord, James Fogarty, tenant; judicial rent affirmed; John Robinson, landlord, James McNorth, tenant; judicial rent affirmed.' \*

The first set of Land Commissioners passed away; they were succeeded by a second Land Commission, the president of which was Mr. Justice Bewley, an accomplished, if not a very eminent, lawyer. This Commission, like the other, was composed of honourable men; it is only just to remark that it was bound by the bad precedents made by the tribunal which it had replaced. The procedure of the Sub-Commissions was, in some degree, improved; but the methods of the second Land Commission differed for the worse where they differed from the methods of its

\* Evidence taken by the Fry Commission: Mr. Campbell, p. 30.

predecessor. The Land Commissioners appear to have not at all regarded the general principles in fixing 'fair rent,' which ought to have had effect on their judgments; they gave less weight, than Mr. Justice O'Hagan, and his colleagues did, to the most important evidence, in this province, to which I have adverted before, and laid too much stress on the least important evidence. As has been truly remarked, 'We believe that much more attention was paid in the early days of the Land Commission to the remaining kinds of popular evidence than has been the case of late years; and we are assured by one of the head Commissioners that the Act of 1896 has made a great change in the fixing of fair rents by placing an emphasis on the technical evidence, and throwing the popular evidence into the background.'\* The Commissioners, too, followed the bad example of the first Land Commission, in the province of appeals; they practically disregarded almost everything but the reports of their valuers, unchecked statements made by men who were not even witnesses, were not sworn, and were not examined—a procedure worthy of the Council of Ten at Venice; as before, the result was that appeals were made all but fruitless, in the Court of which the decisions were, in this respect, final.

There was, too, another grave miscarriage of justice caused, perhaps, by a mistake made by the head of the second Land Commission. The Act of 1881 provided that 'fair rent' should be fixed, having due regard to the 'interest' of the tenant on the land, that is, to his improvements, and perhaps to the mode of his tenure. Mr. Justice Bewley seems to have decided that another element ought to be taken into account, and should effect a reduction of rent; the tenant had 'an occupation right' in his favour, over and above the 'interest' the law gave him; by reason of this he had a right to have his rent cut down.

\* Report of the Fry Commission, p. 18. I entirely dissent from the above opinion of the head Commissioner.

The only plausible ground alleged for this doctrine was that landlords would usually accept a lower rent from a 'sitting' tenant in possession than from an incoming tenant; in other words, their good nature was turned against them, and was to be made a pretext for their being despoiled. It is just to observe that Mr. Justice Bewley's colleagues dissented from this curious view of the law; and the claim for 'occupation right' has since been blown to the winds in the superior Courts of Ireland. But though many faint denials were made, some of the Sub-Commissioners acted upon Mr. Justice Bewley's doctrine; the evidence is conclusive that this imaginary right was made the means of considerably reducing rent. Mr. Justice Bewley candidly admitted: 'From the commencement, apparently, a number of the Sub-Commissioners have acted on the principle that there is a certain occupation interest, which every tenant has, varying according to circumstances, not any fixed amount, but varying, and that that is to be taken into account in fixing the fair rent.'\* This statement has been confirmed by a host of witnesses by no means willing in not a few instances. 'Would you make a difference between the assessment of the fair rent in the case of a sitting tenant, and in the case of an incoming tenant—a stranger? Certainly. Can you give us any idea what that difference is, expressed in percentage?—I could not very well answer that question. It is a mental calculation, and a good deal would depend upon the length of the tenure of the tenant.'† And again: 'In your experience of the Land Commission Court, do you find the "occupation interest" has been taken into account in fixing the fair rent?—Yes, I cannot account for the reductions that have been made, except on that supposition.'‡ And again: 'As far as your experience

\* Evidence taken by the Morley Commission, p. 507.

† Evidence taken by the Fry Commission, p. 461.

‡ Ibid., p. 616.

goes, do they invariably value the holdings on the principle of giving an occupation interest to the sitting tenant?—Yes, the tenants' valuers, as a rule, give 40 or 50 per cent. as the interest of the sitting tenant. . . . Do you find that the Sub-Commissioners fix the rent on what the valuers state?—Well, no; that would be going too much out of the way.\* And again: 'Have you any doubt that the rents are fixed on the basis of the occupation interest in the sitting tenant?—I have none. I do not know how else the rents could have been arrived at.'† And once more: 'Did the Sub-Commissioners invariably take the occupation interest of the sitting tenant into account?—I think so.' I conclude with these remarks of Mr. Barnes, one of the best and most impartial of Irish valuers: 'When I came to give evidence in Court I found that nothing else would be accepted as evidence unless based on occupation interest. . . . It was almost the first question. . . . Whenever there was an answer made that the valuation was based on what the landlord would get for the land in his own hands, it was discounted at once.'‡ No wonder that it has been alleged by the highest authority with respect to this claim, since proved to have been unfounded, guarded and cautious as the language is: 'There is, however, reason to believe that this notion of an occupation interest existed in the minds of some of the early valuers, and did, in fact, influence them, and it is very possible that some cases in which the reductions there made appear startling, may be, in part, attributable to this doctrine.' §

What amount of the rental of Ireland was unlawfully cut down owing to the theory of 'occupation right,' it is, of course, impossible to ascertain. Reductions of rent, too, were probably unjustly made through the ignorance

\* Evidence taken by the Fry Commission, p. 628.

† Ibid., p. 631.

‡ Ibid., p. 941.

§ Report of the Fry Commission, p. 22.



of the Land Commission as to agricultural matters. I refer to a grotesque instance of this: 'You have marked a passage there in the judgment, which, according to you, shows that owing to their ignorance as experts they entirely mistook what six-course rotation meant?—Yes. The fact is they took it to be the same crop in the whole seventy acres, that instead of having so many different crops in this portion of the ground, it was to be put into one crop for the year, and that is what they call "rotation" in the Court of Rehearing. . . . It is plain enough, from the authorised report of the judgment, that they made that mistake?—It is clear as possible, and it was upon that that they threw me out. The tenant himself knew that it was all absurdity and mistake.' \*

A remarkable incident occurred in 1897 which threw a strong, if not a complete, light on the proceedings of the Land Commission and its Sub-Commissions in the adjustment of rent. In 1896 the time had come for renewing the first statutory leases, under the Act of 1881; the Commissioners suddenly made such enormous reductions of rent that persons who knew Ireland were simply astounded. The Irish landlords naturally were indignant; after some hesitation, and with plain reluctance, the Government gave its consent to a very imperfect inquiry. A Commission, presided over by Sir Edward Fry, a judge of the highest eminence, retired from office, and composed of four additional colleagues, two being well-known agricultural experts, was appointed to investigate the subject on the spot; but the scope of the inquiry was limited in the extreme; it was confined, in this respect, to examining the procedure and practice adopted in fixing 'fair rents;' it did not extend to the conduct generally of the Land Commission and its dependent tribunals. The Commission was engaged nearly three months in its task; it held its sittings in different parts of Ireland; it had before

\* Evidence taken by the Fry Commission, p. 676.

it 183 witnesses ; and restricted as it was in this province, it pronounced, in grave and judicial language, a marked censure on the methods that had been followed in fixing 'fair rents' in Ireland. In fact, Sir Edward Fry and his colleagues confirmed, in many respects, the charges which I have made with regard to this whole system. No doubt they reported, in very guarded words, 'that they were unable to conclude that the machinery of the Land Statutes has been uniformly worked with injustice towards landlords ;' \* but as they pointedly refused to rehear a single case, in which the Land Commission and the Sub-Commissions had fixed a 'fair rent,' this statement, ambiguous as it is, is of no real importance. In other particulars the expression of these opinions cannot be mistaken ; to impartial minds it will appear decisive. They evidently thought that such wrong had been done to landlords owing to the want of a definition of 'fair rent,' that they actually framed a definition of their own, in order to establish some kind of standard ; this did not widely differ from that of Mr. Law, which, I have said, would have made things very different had it been adopted.† They pointed out that the Land Commissioners should have assisted the Sub-Commissions in fixing 'fair rents,' and should not have left them 'like ships without a rudder or a compass on a stormy sea ;' it is 'a subject of regret,' they reported, 'that in the early days of the system the Land Commissioners were unable to take a part in the tribunals of first instance ; and that the whole original business was left to Sub-Commissions.'‡ They strongly condemned the nature of the Sub-Commission Courts, as being composed of members inadequately paid and mere tenants at sufferance ; and they put forward an elaborate scheme to make the administration of justice in these tribunals more above suspicion.§

\* Report of the Fry Commission, p. 20.

† Ibid., p. 21.

‡ Ibid., p. 9.

§ Ibid., p. 14.

They evidently believed that the Land Commission and the Sub-Commissions did not give due weight to the class of evidence that was most important, and gave too much weight to that which was the least; and they made significant observations on this subject.\* On the whole, they arrived at the conclusion that the fixing of 'fair rents' 'gives opportunity for dissatisfaction, and leaves much more for improvement; . . . and that the settlement of fair rents has been effected in an unsatisfactory manner, with diversity of opinion and practice, sometimes with carelessness, and sometimes with that bias towards one side or the other which exists in many honest minds.'† But their strongest animadversion was found in the system, through which, I have said, the Land Commission really 'strangled' appeals, though in this province its decisions were final: 'An almost universal dissatisfaction is expressed with regard to these appeals, a dissatisfaction felt by some at least of the Commissioners themselves. No witness, with, perhaps, a single exception, spoke in favour of the existing system.'‡

Mr. Justice Bewley has retired from office, and has been replaced by Mr. Justice Meredith, a capable and experienced lawyer. He has done, probably as much as in him lay, to alleviate some of the wrong done to Irish landlords; and for this he has been subjected to violent abuse, especially on the part of an advocate of Ulster farmers, whose tongue is at odds with his trade in temperance. But he is bound by the precedents set by those who have gone before him; and though the work of the Land Commission is now better done than it was before the Report of the Fry Commission appeared, and its general procedure has improved, little change has been effected in the reduction of rent in Ireland. The Government, as I have pointed out in a preceding chapter, has made a few

\* Report of the Fry Commission, pp. 18, 19.

† Ibid., pp. 12-26.

‡ Ibid., p. 15.

administrative reforms in the composition and the arrangement of the Sub-Commissions ; but it has not taken a single step to give effect to the recommendations made by the Fry Commission, so far as these are of real importance ; it has refused to legislate on the subject, and to bring in the measure that was required ; it has even refused to set a further inquiry on foot. The general results of the labours of the Land Commission and of its subordinate tribunals in fixing 'fair rents' may be summed up in a very few sentences. According to the Report of the Fry Commission, the tenants of rural holdings in Ireland are about 486,000 in number ; 328,720 of these have had 'fair rents' fixed, between August, 1881, and the end of March, 1900.\* The tenants, who have not had 'fair rents' fixed, are probably either tenants of lands not within the Land Acts, or 'future tenants' since 1881-82, or tenants too poor to pay law costs ; but these, perhaps in nine cases out of ten, have indirectly had the benefit of the law, and have had their rents reduced like those of the large majority, by voluntary concessions on the part of landlords. The great mass of 'fair rents' has been fixed by the Land Commission and its dependents, and the proceedings of these tribunals have, beyond question, formed a standard for the adjustment of rent ; whether 'fair rents' have been fixed by the County Courts,† or by agreements between landlord and tenant, they have, in the main, conformed to the measure established by the Courts set up in 1881. The reductions of rent made, in every way, in the first statutory leases, were, on an average, rather more than 20 per cent. on the old rental ;‡ but those on the second statutory

\* Report of the Irish Land Commission to March, 1900, p. 64.

† It is but just to the Land Commission to state that the reductions of rent made by the County Courts were somewhat higher than those it made. But this was notoriously because rack-rented tenants, for the sake of expedition, rushed first to these tribunals.

‡ Report of the Irish Land Commission, p. 64.

leases have been 22 per cent. more,\* that is, the fixing of 'fair rents,' so far as it has gone, has reduced rents rather more than 42 per cent. It may be asserted, with some confidence, that through the operation of the new Irish land code, taking in tenancies of all kinds, Irish rents have been cut down nearly 40 per cent.; little doubt can exist that they are now lower than they were in the day of Wakefield, and in some instances in the day of Arthur Young, when the price of Irish agricultural produce was less than half what it is at the present time.†

The agricultural rental of Ireland, therefore, in all probability, has been reduced almost 40 per cent., or will be in a short space of time; and as long as the present system of fixing 'fair rent' continues, however it may be lowered, it will certainly not be raised. The Act of 1881, I have already said, would, by itself, necessarily reduce rents; but the faulty administration of it, on which I have dwelt, has reduced them far more than ought to have been the case. In fact, disguise it as you may, an immense confiscation, gradual, indeed, and veiled, but not the less real, has been made of the property of Irish landlords, even on the principles of a bad law; the evidence of this is, I believe, conclusive. Rents have been cut down indiscriminately in the great mass of instances; for example, rents in country districts only opened to good markets of late years, have been reduced quite as much as rents around Dublin, which had almost a monopoly of the best market until about 1855-60. But the proof of this spoliation is made most apparent by taking into account a single fact, and drawing the natural inference from it. The value of the landlords' interest in the land, before 1881, was from 20 to 25 years'

\* Report of the Irish Land Commission, p. 3.

† See a remarkable instance in the Evidence taken by the Fry Commission, p. 683: 'The holding was let in 1771 at 30s. the Irish acre, equal to about £1 per statute acre. The Sub-Commissioners have now cut it down to less than 12s. 6d. per acre.'

purchase ; it is now between 15 and 18 ; at the same time the value of the tenants' interest has, in thousands of cases, enormously increased. I refer to a few examples out of scores to be found in the evidence given to the Fry Commission. I take first an estate in Ulster : 'I only remember one case of a holding before 1881 that went up (in a sale of the farm) to anything like 20 years' purchase of the rent, and I have several cases since then that have gone beyond it. I remember one case that struck me very forcibly because of the great amount the man got—20 years' purchase. Since then I have known, 29, 35, 36, 34 years' purchase to be given.' I turn now to two estates in the south of Ireland : 'Charles Bolster, 112 acres ; rent £79 5s. ; sold for £570 in 1889. Daniel Buckley, 9 acres, at rent of £3 3s. ; sold in 1889 for £45. Christopher Crofts, 131 acres ; old rent, £86 ; judicial rent fixed in 1893, £80 ; sold in 1889 for £120. Timothy Reece, 5 acres ; rent, 29s. ; sold in 1891 for £47.' I pass on to the second estate : 'Next case, 65 acres ; old rent, £60 ; judicial rent, £56 14s., fixed in 1883 by agreement ; sold in 1883 for £330. Next, 76 statute acres ; old rent, £115 ; judicial rent fixed in 1885 at £108 ; sold in December, 1885, for £1600.' \*

This great fall in the value of the fee simple in the Irish land, and this great rise in the value of the tenant right, coinciding with the general fixing of 'fair rents,' distinctly point to a plain conclusion : the interest of the Irish landlord has been enormously reduced, a result never contemplated by the author of the Act of 1881. In truth, there has been little or no decline in the market price of land in Ireland ; but property that ought to belong to the landlord has been improperly taken from him, and has been transferred to the tenant who had no right to it. Excuses, however, have been made for this wholesale abolition of rent ; they are worthless, but may be briefly noticed. Ireland, it is said, is suffering, like

\* Evidence taken by the Fry Commission, pp. 496, 609, 670.

England, from the agricultural depression of late years ; and rents in Ireland have not been cut down more by the act of the State than they have been reduced in England by the voluntary acts of landlords. But agricultural depression in Ireland, a land of small holdings, and of pasturage, to a considerable extent, is not, by many degrees, as severe as in England, a land of large farms and largely of cereal culture ; a signal proof of this is that, while in England, tenants have, in hundreds of instances, thrown up their farms, there has hardly been a case of the kind in Ireland, as appears from the Report of the Fry Commission. Besides, if agricultural prices have fallen in Ireland, compared to what they were, say, twenty-five years ago, they are higher than they were in the years, say, 1850-55, not to take into account the progress made by Ireland, in the last half-century, in crops, farm machinery, and the breeds of farming animals. As to the reduction of rents in England and Ireland, the supposed analogy completely fails. The rental of England rose greatly from 1850 to 1880 ; there was no corresponding increase in Ireland ; there was thus a margin for reduction, in the greater island, which in the lesser did not exist. Again, no comparison can be made between State-settled Irish rents and English rents lowered by the voluntary acts of landlords. 'Fair rents' have practically been reduced for all time ; the reduction of English rents is temporary, and can be at once annulled ; this difference makes a supposed resemblance a very striking contrast. As to the argument that the Courts which have fixed 'fair rents' have been composed of honourable men, and that it is extremely invidious to make charges against them, mere leather and prunella may be brushed aside. No one disputes the honour of the Land and the Sub-Commissioners, but it does not follow that they have not done injustice ; no one has disputed the honour of the Commission which carried out the Encumbered Estates Act,

and yet it repeatedly sold estates at less than half their value.

The Irish landlords, I repeat, have been iniquitously despoiled; a huge confiscation has been made of their property. If the simplest right is to be done in this province, their claim to compensation has been rendered complete—apart from the utterances of Mr. Gladstone; should this be disregarded, Parliament will have been chargeable with a grave breach of faith, and a precedent will have been set from trampling on the just rights of property in the Three Kingdoms, which will be dangerous in the extreme. I pass on to consider the Irish land on the side of ownership, and the administration of the system of so-called 'land purchase.' Of the total of £40,000,000 alone available, some £20,000,000 appear to have been expended; some 50,000 tenants have been made owners of their farms, without having paid a shilling of their own, that is, rather more than one in ten of the whole tenant class in Ireland. The politicians who declared against 'dual ownership,' that bugbear of self-sufficient ignorance, can find little consolation in these figures; I shall comment afterwards on what this state of things has produced. The Government of Lord Salisbury still proposes to seek to accelerate 'land purchase' of this kind; and loud complaints have been made of the law's delay in not having made the process more speedy. I have had no experience in this matter, and shall, therefore, give no opinion on it; but it appears to me that there has been some want of care in making advances to these so-styled 'purchasers;' not a few were insolvent when they acquired their farms, and many are now on the verge of bankruptcy. This, however, was perhaps inseparable from the system that has been pursued; it is only an additional proof of its essential vices.



## CHAPTER VI

### THE QUESTION OF THE IRISH LAND (*continued*)—PROPOSED REFORM OF THE IRISH LAND SYSTEM

Retrospect of the present Irish land system—Position of the Irish landlords—Position of the Irish tenant class—This not as advantageous as might be supposed—The effects of the land code on Irish agriculture injurious—The effects on the general Irish community—Confiscation, violation of contracts, shock given to credit, increased alienation of classes, and demoralisation—The land system considered on the side of ownership—‘Voluntary purchase’—Mischiefs of this policy—It sets up a false standard against rent, and creates unjust distinctions between different classes of tenants—The results it has produced already—An instance of the system—The demand for the compulsory purchase of the Irish land caused by ‘voluntary purchase’—Compulsory purchase has some hold on opinion, but is an impossible, and would be a disgraceful and ruinous policy—It would ruin Irish landlords as a class—Instances—It would ultimately bring Ireland into the state in which she was before the Great Famine—Proposed plan for the reform of Irish land tenure—Questions as to the means of compensating Irish landlords, a deeply wronged order of men.

HAVING traced the attempts that have been made to reform Irish land tenure, in the last thirty years, and noticed the administration of the new Irish land code, I must, for the sake of clearness, take a short retrospect, and consider the Irish land system as it exists at this day ; I shall review it on the side of occupation first, that is, in the relations of landlord and tenant. The agricultural rental of Ireland, we have seen, has been, or is being,

reduced about 40 per cent. since 1881, through the operation of laws carried out by tribunals of the State ; this proceeding, unexampled in civilised lands, has been the means, I have proved, of doing gross wrong to the Irish landed gentry. But this, if a signal, is only one of the many acts of injustice perpetrated on a cruelly injured body of men. The fee simple has been wrested from the Irish landlord, where he has been subjected to the legislation of late years ; he has been deprived of the ownership which had been his birthright. An estate, nominally for fifteen years, but really capable of being renewed for ever, has been created against him by an unjust law ; and this has been vested in his former tenants, subject to the mode of land tenure known as the ' Three F's,' the chief of these being ' fair,' that is, State-settled rents, in the adjustment of which he has no voice. He may, no doubt, retain fragments of his old proprietary rights ; parts of his estate may be excluded from the provisions of the law ; he may be the lord of ' future tenants ;' he is left ' royalties,' such as minerals, mines, and timber ; he possesses most of his former legal remedies ; and should the holders of the lands, which had been his own, who have obtained the benefits of the ' Three F's,' infringe the statutory conditions imposed on them, they may be dispossessed, and he may enter upon their farms again. But, notwithstanding exceptions and possibilities like these, the Irish landlord has, for practical purposes, been well-nigh assimilated to a rent-charger, and his tenants have been nearly converted into owners of the soil, an utter revolution in the whole land system, in truth, turning it upside down. The status, indeed, of the Irish landed gentry now bears a strong resemblance to that of the chief landlords of the eighteenth century, who, separating themselves altogether from their lands, let them in perpetuity at low rents, and, as a necessary consequence, produced the middleman, the pest, as he has rightly been called, of Irish land tenure.

The enormous and, as I believe, the unjust benefits secured by recent legislation to the Irish tenant, are not, however, so complete as they appear to be, and are not without disadvantages attendant on them. Tenants of holdings, to which the law does not apply, such as tenants of demesnes and large pastoral lands, if rightly excluded, nevertheless complain; and 'future tenants,' and petty occupants, who cannot afford to seek 'fair rents' from the Courts, have, from their point of view, solid grounds of complaint. The scope of the new land code is, therefore, to some extent, restricted; and if the law has actually caused a general reduction of rents, it has not secured the 'Three F's' for a considerable body of farmers, not improbably a fourth or fifth part of the class as a whole. And even the occupiers of the Irish soil, who have obtained the advantages of the new mode of tenure, have not obtained these without a certain kind of drawback. Completely separated as they now are from their former landlords, they cannot expect indulgences from a class which considers itself to have been shamefully wronged; the allowances, which, whatever may be said, had been made to them, in thousands of cases, have, as a rule, been altogether withdrawn; they get no help in making improvements; they are usually obliged regularly to pay their 'fair rents;' above all, landlords, of a strict or harsh nature, are sometimes on the look-out to see if they do not violate the statutory conditions to which they are subject, in order to convert them into 'future tenants,' outside of the protection of the law, and even to reacquire their lands. These circumstances are not without adverse effects; though unquestionably they are far more than counter-vailed by the change which has been wrought in Irish land tenure, and has given the Irish tenant the benefits already described. Yet, even from this point of view, the law does not operate as unreservedly in his favour as might be supposed. He has his 'fair rent,' probably much too low;

his 'fixity of tenure,' a perpetuity in all but name ; his right to 'free sale,' sometimes worth thousands of pounds. But, as a rule, he can only gain these advantages at the cost of a lawsuit recurring at short intervals of time, with the vexation and mischief this brings with it, a lawsuit, too, of which the results may be more or less doubtful. If, too, he is a saving and thrifty man he will hardly be able to acquire lands for himself, as, in consequence of the right of 'free sale,' the tenant right of these will have become immensely high ; he will be confined, in most instances, to the farm he holds. On the other hand, if he be dishonest or imprudent, he will be tempted to run out and even to injure his land, in order to effect a reduction of rent, or to sublet or mortgage it should an opportunity be found.

The new Irish land code has thus had this special feature : it has done infinite harm to the despoiled landlord, but the tenant has not gained the expected benefits. Let us now see what effect it has had on the great industry on which the Irish landed classes depend, the main source of the wealth of their country. Unquestionably, as I have remarked, over and over again, the tenant in Ireland makes, for the most part, the plant of his farm a necessary incident of the small-farm system ; but the Irish landed gentry, in the last half century, have done a great deal in the work of improvement. Whatever interested calumny may falsely assert, they have expended millions, as unerring statistics show, in planting, enclosure, and, especially, in arterial drainage, this last beyond the reach of the common peasant ; they have, in thousands of instances, made the breeds of stock better ; they have made large allowances as regards farm buildings. All this is now a thing of the past ; the sometime landowner, in a real sense, has been divorced from his former estate ; law has prohibited him from doing anything for it ; his only interest is to collect the rent-charge called, in mockery, 'fair rent.' On the other hand, tenants in Ireland have, in a great

many cases—I have briefly glanced at the conclusive evidence—positively wasted or neglected their holdings, for the express purpose of working rent down ; this shameful expedient has been hardly checked ; the deterioration of a large area of land has been thus accomplished. And, at the same time, as ‘fair rent’ is much lower than the rent of the market, a considerable minority of this class have sublet or mortgaged their lands, in order to get advances of which they stand in need ; this, no doubt, is a violation of the law ; but it is a violation difficult to prove, and they run the risk. In this way, as I have shown, in a preceding chapter, the husbandry of Ireland has declined of late years ; woodland has been cut down recklessly to a great extent ; main drainage has been largely neglected, a ruinous thing in a wet climate ; in thousands of cases the farming of tenants at ‘fair rents’ is wretched. The face of the country reveals these facts : Ireland is worse cultivated than it was twenty years ago ; indeed, the best farming, in the island, by many degrees, is that conducted by a small number of men of substance, who still hold on the footing of free contract, having settled with their landlords, and taken out leases, a significant commentary on Irish legislation since 1881.

This subject, however, must be considered from a broader point of view, and with reference to the community of Ireland, as a whole. A great confiscation, I have said, has been wrought in the Irish land ; the immense fall in the value of the landlord’s estate, and the immense rise in the value of the tenant right, prove that property belonging to one class has been transferred, wholesale, by law, to another, a result never contemplated by responsible statesmen. And confiscation has produced its inevitable effects ; free dealing in land has been prevented ; except to his former tenants an Irish country gentleman cannot sell what remains to him of his former estate, and that through the system of ‘land purchase ;’ capital shuns the

Irish soil as if it were a quicksand ; trustees and mortgagees will not invest in it ; in a word, as respects the class which had been its owners, the Irish land has been bound in a kind of pernicious mortmain. It is unnecessary to dwell on the resulting evils ; one of the sources of the wealth of Ireland has been made barren ; a paralysis has fallen on a member of Irish industry ; what is, perhaps, even worse, a sense of insecurity, of instability, of fear of unknown change, so widely prevails in Irish landed relations, that they have become completely unsettled, and are a mere chaos. And as vicious legislation has cut the old landlord off from his estate, has assimilated him to the chief lord of the eighteenth century, and is evolving, by degrees, the middleman, so the effects of confiscation, by keeping land out of commerce, have unnaturally limited and restricted its nominal ownership ; in fact, many of the features of the detestable penal laws of Ireland are reappearing in the Irish land system, and are being reproduced by the modern Irish land code. Another mischievous effect of this code, in another direction, requires attention. The value of tenant right, we have seen, has enormously increased ; the sums paid by incoming to outgoing tenants, on the transfer of farms, have, accordingly, become enormous ; these purchasers, therefore, are being subjected to heavy outlays, practically in the nature of rack-rents, which hamper their industry, starve their capital, and most injuriously affect good husbandry. One class of the community is thus wronged for the behoof of another ; and agriculture must, more or less, suffer.

Not the least, however, of the manifold evils caused by this legislation have to be yet noticed. The ancient divisions of race and faith in the Irish land system still continue ; what was most harsh and oppressive in them has been effaced ; but they have become wider and more marked in the last twenty years ; and this is largely to be ascribed to the present land code. A mode of land

tenure, which produces harassing litigation at short intervals of time, and makes landed relations cockpits for legal conflicts, necessarily sets the landed classes against each other ; it has aggravated the old differences deep-rooted in the Irish soil. The Protestant gentleman and the Catholic peasant are more estranged from each other, in the southern provinces, than they have been, I believe, within living memory ; the same remark, too, applies to Presbyterian Ulster, where the gentry belong, for the most part, to the late Established Church, and the tenant classes are of the faith of John Knox ; the lines of distinction between these orders of men have deepened ; and this alienation, concurring with another cause, has contributed to the cry for the confiscation of the Irish land, which is now being very generally raised, and to which I shall refer afterwards. Another mischief of this legislation, at which I have already glanced, is the widespread demoralisation it has caused, from the nature of the case. The litigation in the Courts where 'fair rents' are being fixed, is often a miserable spectacle of hard and mendacious swearing productive of the worst effects on the human character. Peasants, as a rule, do not scruple to pledge their oaths that their rents ought to be at most a fourth of the rents they had paid for perhaps half a century ; the witnesses they call as valuers usually repeat these statements. The claims, too, for exemption from rent, on account of improvements, are often ridiculous, often shameful ; I have seen sums paid for manures twenty years old, gravely put forward as creating a claim for exemption ; and the subject of the deterioration of farms is another fruitful source of falsehood. It is hardly necessary to comment on the results, as regards self-respect and the moral sense of men, which must follow proceedings of this kind, carried on, over whole counties, in thousands of cases ; they are, inevitably, in a very high degree, unfortunate ; but, when law encourages dishonesty, they were to be only expected.

Such have been the fruits of the new Irish land code, on the side of the occupation of the Irish land. Legislation, essentially faulty and unwise, in conflict with economic science and the facts of the case, has taken from the Irish landlords their chief proprietary rights, and forcibly transferred these to their tenants; it has not conferred the benefits it intended on an unfairly favoured class; it has wrought a revolution in the Irish land system, in contravention to plain justice, and given it an unnatural and evil aspect; it has caused iniquitous confiscation on a vast scale and demoralisation profound and widespread, with the far-reaching inherent mischiefs; and bad administration has made bad laws worse. Political economy, spite of Mr. Gladstone, has not fled from this world at his bidding; she looks on, so to speak, at the ruins in Ireland produced by the violation of her most certain principles; I will add, she affirms the claim to compensation of the Irish landlord, if the simplest equity is not to be set at nought. As to the general situation evolved by the present Irish land code, I may refer to these pregnant words of Mr. Lecky: 'It cannot be denied that this legislation has redressed some hard cases and benefited a large number of tenants; and as few men look beyond immediate consequences, or rightly estimate those which are indirect and remote, this fact is accepted by many as its justification. For my own part, I believe that it will one day be found that the evils resulting from this policy have greatly outweighed its benefits, and that they will fall far more heavily on another class than on the small class which was directly injured. In a poor country, where increased capital, improved credit, and secure industry are the greatest needs, it has shaken to the very basis the idea of the sanctity and obligation of contract; made it almost impossible to borrow any considerable sum on Irish land; effectually stopped the influx of English gold; paralysed or prevented nearly all industrial undertakings



stretching into a distant future. It has reacted powerfully upon trade, and thus contributed to impoverish the Irish towns, while it has withdrawn the whole rental of Ireland from the improvement of the soil, as the landlord can have no further inducement or obligation to spend money on his estate. In combination, also, with the Home Rule movement, it has driven much capital out of the land.\*

I pass on to the legislation of late years, with respect to the Irish land, on the side of ownership. I have briefly described what that legislation is: a Conservative Ministry, impressed with the wrong idea that Mr. Gladstone had 'created dual ownership,' by the ill-conceived measure of 1881, resolved to abolish this evil thing if they could, though it is the natural mould of Irish land tenure; and Parliament has allotted £40,000,000 to attain this object, through the operation of what is falsely called 'land purchase.' The mode of proceeding has been explained: an Irish landlord, who desires to sell his estate to his tenants, can obtain an advance for this purpose from the State, through the agency of the Land Commission; the tenants are then made owners of their farms, without contributing any moneys of their own, and hold at terminable annuities much lower than even 'fair rents.' The transaction, therefore, we have seen, is, in no sense, a purchase; it is a gift, in the nature of a bribe; it is completely different from the policy of John Bright and the sales of land made to tenants before 1885, in which these men paid part of the price at least, the only real security for thrift and honesty. Of the £40,000,000, nearly half, I have said, has been spent; and out of the 486,000 agricultural Irish tenants, some 50,000 have acquired their holdings, in fee, under these conditions. The law thus applies to a mere fraction of the class; it is idle to assert that this can do much to extinguish 'dual ownership' in all Ireland; the sum required would be many times more than that

\* 'Democracy and Liberty,' vol. i. pp. 202, 203.

which alone has been made available ; and the process, at the present rate of ' purchases,' would not be accomplished within a century. We may, therefore, pass away from this part of the subject ; but let us see how ' land purchase,' effected in this way, bears on the position of the Irish landed gentry. The immense majority of this order of men still cling to their native country and their homes ; they hate the idea of parting with the rights they retain in the land, trampled down and injured as they have been ; this is especially the case with the best and most solvent landlords. But as the terminable annuities payable on ' land purchase' are not nearly so high as even very low rents, not to speak of the other conditions of this mode of tenure, it follows that tenants who have thus been made owners are infinitely better off than tenants still subject to rent ; one class has great advantages, of which the other is deprived ; as a necessary consequence an artificial standard is set up against rent, which does wrong to the landlord, from the nature of the case ; gives every tenant on his estate a grievance ; and not improbably may expose him to a determined refusal to pay any rent whatever.

' Land purchase,' therefore—the name is a mere untruth—has been a failure as regards ' dual ownership ;' and it is establishing against the Irish landlord a false measure of rent, analogous to a base coinage, a strange achievement of a Conservative Government. Let us next consider what has been the working of this economic nostrum, with respect to the class, for the benefit of which it was first prescribed, and which has reaped the advantages it gives. The tenants, who have been made owners of their farms, have, as a rule, discharged their obligations to the State very well, though I could point to not a few exceptions ; and there have been strikes against the payment of the terminable annuities in some instances. This may be sufficient for official bureaucrats ; it is not sufficient for those who know Ireland, and can impartially watch the

course of events. It was fondly expected that 'land purchase,' that is, bribing tenants in Ireland to become owners of their farms, would create a powerful body of freeholders loyal to the State; but this has already been seen to be a mere delusion. As Parnell predicted would be the case, these 'purchasers' are 'patriotic' in the highest degree; they fill the ranks of the United Irish League, that is, of a conspiracy against our rule in Ireland, and are numbered among its most efficient agents; human nature being what it actually is, this is precisely what was to be expected. It was confidently foretold, again, that these 'purchasers' would form a thriving class of model farmers; and that their lands would be patterns of admirable and improved peasant husbandry, but this forecast is being, in a great degree, falsified. These men, 'rocked and dandled into their possessions,' in the words of Burke, without a single guarantee for common prudence, and especially without an effort of their own, have, in hundreds of instances, turned out sorry failures; and it has been the almost universal practice of the whole class to cut down every tree that grows on their lands, an act of ruinous waste in a rain-drenched climate. Besides, as freehold ownership is not an Irish idea—indeed, is opposed to Irish ideas—these 'purchasers' have, in many cases, following the example of tenants 'at fair rents,' subdivided, sublet, or mortgaged their holdings; instead of remaining owners in a true sense, they are becoming middlemen lording it over rack-rented serfs. The agriculture, too, of hundreds of these farms is slovenly in the extreme, for bribery does not promote industry; what is 'easy got, easy goes' is a true proverb; and, in addition, a number of these men were really insolvent when they were made 'purchasers.' That Ireland will blossom like a rose, under these conditions, is seen even now to be a chimera; and there is much reason to believe that many of these 'purchasers' have become the prey of the race of local usurers, a consummation that

might have been predicted. 'I shall sell my estate,' a witty Irishman once remarked, 'but I will keep two loan offices and four public-houses; and in two generations my "purchasing" tenants will be too happy to resell their lands to my grandsons.'

A singular instance of 'land purchase,' and, indeed, of the working of another part of the land code, has come under my notice of late; I can answer for the accuracy of what I write; scores of similar cases could be, probably, found. In 1852, an industrious Scottish tradesman invested the savings of years of his life in buying a chief rent under the Encumbered Estates Act; he gave £5000 for a perpetual rent-charge of £192, that is, not quite 4 per cent. on his capital. The tenant of the lands subject to the rent was a middleman, with an estate of about £3000 a year; he had sublet the lands to a tenant in occupation of them, a slovenly, ill-conditioned, and indolent farmer. The Land Act of 1887 passed; the wealthy middleman, an excellent 'mark' for the chief rent, who, therefore, had been obliged to pay the £192 a year, was empowered by the new law to evade his contract, and practically to get rid of his interest; the owner of the chief rent, therefore, had only the tenant in occupation to look to for the discharge of his claim. This person was succeeded by his son, a good-for-nothing and drunken man, who soon became head over ears in debt; but he was declared 'a purchaser' by the Land Commission, and, subject to a terminable annuity, was made owner of the lands. But the advance made was not more than £2300; the representative of the hardworking Scotchman, who had bought property, as secure, at the time, as Consols, was a loser of more than half of his capital; he was simply cheated out of £2700, through the operation of an iniquitous law; his indignant protests may well be conceived. The subsequent history of this so-styled 'purchase' is significant, and not without interest. The worthless owner took possession of

the lands ; his first step was to cut down the woodland, until he was stopped by a creditor to whom he owed a mortgage. Since that time he has become insolvent in all but name, and cannot pay the annuity due to the State ; the Land Commission has been trying to sell the lands ; but the attempt has, hitherto, been a failure ; the lands have been 'boycotted,' and the market has been closed against a sale. These proceedings do not require a word of comment ; they strikingly illustrate how the agrarian code of Ireland makes havoc of capital, annuls contracts, and confiscates property for the behoof of dishonest thriftlessness. Meanwhile the happy middleman enjoys his £3000 a year ; I dare say he licks his lips as he thinks of the Land Act of 1887, which scattered a just liability to the winds.

The most remarkable and the worst effect—with a revolutionary tendency in no doubtful sense—of this mischievous system has, however, to be still noticed. About one out of ten of the agricultural tenants of Ireland have 'purchased' their farms, in the way described ; the fund available for 'land purchase' cannot include more than one in five ; and the process is and must be slow, owing to the law's delay. Legislation, therefore, with a singular want of insight, has drawn, and is drawing, an unjust distinction between 'purchasing' and rent-paying tenants ; it is dividing them into a small favoured class, and a multitude harshly left out in the cold—fat sheep in one fold, lean goats in another ; as the inevitable result, the rent-paying tenant resents the benefits obtained by 'the purchaser ;' and the immense majority of the farmers of Ireland are made discontented with their lot, from their point of view not without reason. It is idle to say to this great body of men that they have already gained advantages from the State, on which they never reckoned thirty years ago, and that they have the 'Three F's,' and all that the phrase implies ; those who have secured much

are eager to secure more ; the unfair distinction arbitrarily made against them is unintelligible and exasperating, man being what he is. The policy of 'voluntary purchase,' as it is called, has, accordingly, from the very nature of the case, provoked and called into being the cry for the 'compulsory purchase' of the Irish land, now being heard far and wide in Ireland—that is, for the forcible expropriation of all Irish landlords, and for placing all their tenants, in their stead, as owners of their estates. This demand has as yet been rejected by statesmen, and is, I believe, both hopeless and shameful ; but it has, nevertheless, some logic on its side ; it is a corollary from legislation essentially bad ; and, backed as it is by a large force of Irish opinion, it cannot be ignored or treated with contempt. It is simply extraordinary that many Irish landlords have been encouraging, and still encourage, 'voluntary purchase,' on its existing lines, and will not perceive that it leads to 'compulsory purchase ;' either from a desire to dispose of parts of their estates, or from motives not easy to understand, they are promoting a revolution, which, if accomplished, would assure their ruin, as I shall conclusively prove afterwards. But the well-informed and most thoughtful members of their class are not flies lured into a bottle by a bit of sugar ; they are alive to all that is involved in what is called 'land purchase.' Many years ago, when Parliament was voting funds for 'voluntary purchase,' on the present system, I indicated what would be the results ; I only claim credit for some share of common sense : 'Law will have been severing the occupiers of the soil by an arbitrary process into a pampered caste, marked off from a disfavoured multitude ; and, as a necessary consequence, the mass of tenants, kept in an inferior position, will be filled with discontent—and from their point of view with perfect justice—when, as the advances from the State run short, their prospects of "land purchase" shall wane and diminish. An "ugly rush" will be made throughout the country to force

landlords, as a class, to sell, in order to get a chance of buying; in Ulster the cry for "compulsory purchase," already heard, will swell high and fierce.\*

These, therefore, have been the fruits of the system called 'land purchase' with euphemistic falsehood. 'Compulsory purchase,' a demand caused by an unwise policy, is a question that must be fairly discussed; it is nothing to the purpose that it has as yet made little way in Parliament. This claim would have been regarded as sheer insanity thirty years ago; it was scouted by John Bright as in the highest degree mischievous, though John Bright was the first statesman who proposed making tenants in Ireland owners of their farms, but through a real, not a sham, mode of purchase. The compulsory purchase of the rented land of Ireland is a policy that has advocates even in England and Scotland; and it is lamentable to observe how British opinion seems to take little heed how a measure of this kind would affect the position of the Irish landlord, another of the many instances of its habitual disregard of the plainest rights of property in land in Ireland. A set of doctrinaires, ignorant of Irish nature and of the Irish land, imagine that 'the creation of a peasant proprietary,' in all parts of Ireland, as the cant phrase is, would, in any case, make the Union secure, and would promote tranquillity, industry, and content. Some politicians still cherish the fond belief, that thrusting Irish tenants, wholesale, into the place of their landlords, by an act of violence without a parallel, would make Irish government and administration more easy; and shut their eyes to the nature of this policy. English and Scottish capitalists, who have made advances on Irish estates, see in compulsory purchase the best probable means of realising

\* Letters to the *Manchester Guardian*, written in 1890, and since republished. This little work was much noticed at the time; attempts to answer it were made to no purpose. The facts now speak for themselves.

securities now in danger; a few great absentee landlords, eager to part with their possessions in Ireland, at almost any price, are possibly not opposed to this scheme; and so maybe a few bankrupt Irish landlords, hoping to get a trifle out of a general shipwreck. The demand, however, for compulsory purchase has its only real strength in Ireland; and unquestionably it is widespread and far-reaching. The conspiracy against British rule in Ireland, which has made the annihilation of Irish 'landlordism' one of its main objects, calls for compulsory purchase, as a matter of course; it finds no difficulty in banding together the peasantry of the southern provinces in support of a cry which means for this class an improvement in their lot, and appeals to deep-rooted sentiments of human nature. The Irish Catholic priesthood, too, back the movement to a man, and so do the local Nationalist boards; for obvious reasons, both these orders of men seek to drive the Irish landed gentry from their homes, and to replace them by dependents in sympathy with them. The demand has also extended to Ulster, chiefly on account of the harsh distinction drawn between 'purchasing' and 'non-purchasing' tenants; it is economic rather than social or political; but the cry for compulsory purchase is perhaps loudest in parts of the northern province. Its principal champion, at present, is an enthusiast, sincere, indeed, if without judgment and insight; but he is sustained by bodies of farmers formidable in numbers at least.

The sharp and, as I think, the unfair distinction drawn by the present law between tenant 'purchasers' and tenants still subject to the payment of rent, has created, it cannot be said too often, the demand for the compulsory purchase of the Irish land, and for this Lord Salisbury's Government is largely responsible. But because an Irish peasant, on one side of a fence, cannot obtain the benefits of land tenure, which his neighbour, on the other side,



has obtained, and may even have a right to complain, it does not follow that compulsory purchase is a possible, or aught but a disgraceful policy; other interests and considerations must be taken into account. Let us first see how compulsory purchase would affect the financial position of the Three Kingdoms. Great as the prosperity of the Empire is, the strain on its resources is immense; the expenditure of the State at home is vast, and on the increase; the war in South Africa, and the settlement of that huge region, will cost unknown millions; the reform of our military and even of our naval system, necessary to our safety, will be a weighty burden for years; every Chancellor of the Exchequer has declared that fiscal economy, as far as possible, is his first duty. But what does the compulsory purchase of the Irish land involve, and what, confessedly, are its essential conditions? Mr. Gladstone, I have said, asserted, long ago, that the value of the agricultural area of Ireland was £300,000,000; this estimate, I believe, is too high; but, in the opinion of competent judges, it cannot be deemed less than £150,000,000. But the forcible expropriation of the Irish landed gentry on every principle of civilised law, as, indeed, Sir Michael Hicks Beach has already insisted, would imply giving them a large additional bonus; this probably would not be less than £50,000,000; the sum, therefore, required for compulsory purchase, would, it may be assumed, be not less than £200,000,000. Now, can any one imagine that the general taxpayer, in the financial situation in which we are, and shall be for years, will make himself liable for this colossal charge, equal to the ransom Germany extorted from France, in order to bribe Irish peasants into the ownership of their farms, and to effect an agrarian revolution, in which he has no interest? I should like to see the Minister who would go to the country on such an insane policy, and who would call on the hardly taxed millions of England,

Scotland, and Ireland, to burn huge holes in their pockets for such an object, for simply robbing Peter to pay Paul, and that without a pretence of right, or any conceivable good. And what security would the Irish land afford for the payment of this enormous impost? The terminable annuities due from the 'purchasing' tenants would, it has pleasantly been said, be a sufficient guarantee; but men of common sense are not to be caught by chaff; the idea is a vain and worthless delusion. The 'No Rent Manifesto' and the 'Plan of Campaign' were movements of Irish peasants, so to speak, of yesterday; what if another Parnell were to arise and to issue a ukase that 'a foreign and alien Government had no right to an unjust tribute;' and how could this be collected by a Department of an absentee State?

The general taxpayer, therefore, who, thirteen years ago, grumbled at a demand of £5,000,000 only, will assuredly not fling £200,000,000, or half that sum, into the Serbonian bog of the Irish land. It is hardly necessary to dwell on so small a fact, 'that compulsory purchase would reduce the income tax of Ireland about one-half, for nine-tenths of the tenant 'purchasers' would be below its level; but even this cannot be left out of sight. Conservative statesmen, it should be added, are especially bound to reject this scheme; in 1886 they denounced, in emphatic language, Mr. Gladstone's far less dangerous plan of making the State liable for £50,000,000, to buy out Irish landlords; flagrant inconsistency in politics should be eschewed. The probably fixed purpose of the general taxpayer not to mulct himself heavily to fling the Irish soil to a mass of peasants, is doubtless, and I say it with regret, the best security against the destruction of the Irish landlords; this despoiled and maltreated body of men just now fill the place in Irish affairs of the 'Injured Lady' of Swift's satire, gravely told by her lover across the Channel that 'I had cost him ten times more than I

was worth to maintain me, and that it had been much better for him if I had been damned, or burnt, or thrown to the bottom of the sea.'\* Nevertheless, I have faith in right-minded Englishmen, however prejudiced or ill-informed about an unpopular class, if plain facts and figures are set before them; let us see how it would fare with the Irish landlord were he forcibly expropriated under compulsory purchase. I will take the case of an Irish country gentleman, who, in the period between 1868 and 1878, had an income from his estate of £1500 a year, subject to a family charge of £10,000 at 4 per cent., that is, had a net annual income of £1100. Owing to the depression of agriculture since 1879, his rents would have naturally fallen about £300 a year; but let us suppose that, through the operation of the new Irish land code, they have been cut down to 'fair rents' of £900 a year only. His annual income, therefore, would be £900 less by £400, that is, he would still have £500 a year he could call his own; how would it be with him were he forcibly sold out? Admit that his estate would fetch eighteen years' purchase—the present average rate is seventeen—that is, would realise £16,200; deducting, say, £200 for law costs, this would be a net residue of £16,000. But the family charge would absorb £10,000; the surplus would be £6000 only, producing, let us calculate, £4 per cent.; this ruined man, therefore, who, little more than twenty years ago, possessed an income of £1100 a year, would be left £240 at the very utmost. I have taken care to understate the case; I challenge attention to my figures; I ask honest Englishmen would not this be sheer robbery, accomplished, to the disgrace of the State, in its name?

It has been urged, however—and to those who know the facts, the statement is cruel and shameful mockery—that the Irish landlord would only lose his rented lands, and that 'he could live happily on the demesne land, which

\* Swift's 'Works,' vol. ii. p. 82, ed. 1870.

he would still retain.' This would be simply impossible in the case of nineteen-twentieths of the class ; they would not have the means to keep their demesnes up ; they would be compelled to part with them at almost any price ; and the few, who would have the means, would, all but certainly, with their beggared fellows, leave a country in which they had been foully betrayed. It is notorious, indeed, that Irish Nationalist leaders, knowing what compulsory purchase means, have marked down the demesnes of the Irish landed gentry as their prey ; associates of American Fenians and of the Clan na Gael are to revel in the mansions of the Geraldines, the Butlers, the O'Connors, the O'Neills, as Jacobins revelled in the mansions of the La Tremouilles and the De Noailles. But man does not live by bread alone ; the material ruin of the Irish landlord would be bad enough ; but the moral consequences of his expropriation must not be left out of sight. Few of the purchasers under the Encumbered Estates Acts care probably much about the lands they have bought ; the same remark probably applies to most Irish absentees. But an immense majority of the Irish landed gentry are deeply attached to their hearths and their homes ; they are bound to their lands by innumerable ties ; they have been brought up with the sentiments which property in land creates ; in the pathetic words of an old chronicler, 'They do not wish to pray in foreign churches, or to lie in foreign graves ;' their hope has been to live and die amidst their ancestral surroundings. The State has, in a special manner, encouraged this belief ; it rooted the Irish landlord in the soil to be its supporter ; is it to expel him from the position it has made for him, without a thought of the shock to his best feelings this must produce ? Would not such an act be dishonourable, nay, infamous ? Let us hear what the deepest of our political thinkers, Burke, has written upon a somewhat parallel case : 'When men are encouraged to go into a certain

mode of life by the existing laws, and protected in that mode as in a lawful occupation—when they have accommodated all their ideas, and all their habits to it, . . . I am sure it is unjust in legislature, by an arbitrary act, to offer a sudden violence to their minds and their feelings ; forcibly to degrade them from their state and condition, and to stigmatise with shame and infamy that character and those customs, which before had been made the measure of their happiness and honour. If to this be added an expulsion from their habitations, and a confiscation of all their goods, I am not sagacious enough to discover how this despotick sport, made of the feelings, consciences, prejudices, and properties of men, can be discriminated from the rankest tyranny.\*

I have referred to an instance, within my knowledge, of the operation of the new Irish land code, in the case of a middleman, his under-tenant, and a despoiled owner of a rent. I now refer to an instance, also within my knowledge, of what compulsory purchase would do in the case of an Irish landlord. This person is a scion of one of the princely Irish-Milesian houses ; his forefathers were lords of a tract extending from the Boyne to the Shannon. They belonged to one of the famous 'five bloods of Ireland,' acknowledged to be half-royal by Henry of Anjou ; they intermarried with the great Norman-Irish *noblesse* ; one of their matronage was half-sister of Surrey's fair Geraldine ; the ruins of the abbeys they founded are still to be seen. Their domains were torn from them in the reign of Mary Tudor ; but they fought stubbornly with their tribe in the great Desmond war ; they retained, though proscribed, the rank of princes, until the close of the sixteenth century ; leaders of the house then carried their swords into foreign armies, and have given a field marshal to Austria and grandees to Spain. The direct line of the chiefs, however, remained in Ireland ; it vegetated in

\* 'Reflections on the Revolution in France,' vol. i. p. 440.

obscurity until the Irish rising of 1689-90; one of its members then appeared in the Parliament of James II. in Dublin, and perished, at the head of his regiment, it is said, at Aughrim. The fortunes of his descendants are not without interest; one is believed to have been a companion-in-arms of Villars at Malplaquet and Dénain; two of his remote offspring, the tradition exists, perished in the ranks of Napoleon's armies. But the heir of the family bowed under the yoke of the Irish penal laws, and became a Protestant, at least in name; his near kindred gave Ireland Anthony Malone, one of the most illustrious Irishmen of the eighteenth century, and gave England the best commentator on her most immortal poet. One of his representatives, the person of whom I write, still possesses a fragment of the immense possessions his fathers ruled; of more than thirty of their castles he has the wreck of one; a scroll on the roof of his house bears the touching legend that he has sprung from the loins of the old Milesian princes. He is not wholly unknown as an Irish landlord of this day; curiously, too, his rental has been hardly reduced by the visitations of the Land and the Sub-Commissions. Is this scion of the best and the most ancient *noblesse* of Ireland to be banished in his old age from his home, and to be replaced in it by ornaments of the Land, the National, and the United Irish Leagues, for this would be one result of compulsory purchase?

Let us imagine, however, that, owing to the malign influence which, Spenser said, attends England in Irish affairs, the Irish landed gentry were removed from the land, and their former tenants were put in their place as owners. What would be the consequences, economic, social, political, of this sudden agrarian revolution in one of the Three Kingdoms? The distribution of the Irish soil between the classes which would possess it, would be unfavourable, in the highest degree, to the establishment of a 'peasant proprietary,' the common name in use on this

subject. Of the 486,000 tenant farmers in Ireland, some 132,000 hold patches of from less than one to five acres in extent ; are these to be stereotyped as real land owners ? More than 90,000 occupy from fifty to five hundred acres and upwards ; these include the great graziers of the rich tracts of pasturage ; do these supply elements of a ' peasant proprietary ' in any rational sense ? The only class which even on plausible, *a priori* grounds could be made occupying owners of the land would contain much less than 300,000 families ; and probably it occupies less than two-thirds of the island as a whole. Are all these bodies of men to be lumped, so to speak, together, and universally to receive the ownership of the soil ; would not compulsory purchase, even on these conditions, be the sheerest folly ? Furthermore, the configuration of Ireland and her climate make it next to impossible that a ' peasant proprietary ' could generally thrive within her borders ; Nature herself forbids an attempt to carry out, on a large scale, a settlement of the kind. The central area of the island is a low watershed of wide extent, from which a succession of streams descends through vast tracts of morass and bog ; in other parts of the country there are large and deep rivers, curving as they approach the sea, and flowing through mountain spaces ; the lands they traverse are swampy, and require main drainage ; a large part of Ireland is composed of wild hill ranges only fit for the rearing of young and coarse breeds of cattle ; she possesses a fine area of the best pasturage, confined, however, to a few counties ; her true agricultural area is comparatively small. Her climate, moreover, is wet to a proverb ; torrents of rain from the Atlantic fall on her plains for months ; above all, her inland towns are far from each other, and petty ; scarcely one is peopled by more than 10,000 souls. Any well-informed and right-judging person who knows the conditions under which a ' peasant proprietary ' can alone flourish, must know that, from the nature of the case, it

would be a failure, in the circumstances in which it would be necessarily placed, were it forcibly established in every part of Ireland. Ireland has little in common with Belgium, with Northern Italy, with France; this settlement of confiscation would go the way of the Englishry of the Middle Ages and the Cromwellian colonists.

The most conclusive argument against compulsory purchase has, nevertheless, to be yet put forward. The state of things 'voluntary purchase' is evolving would assuredly be aggravated a hundred-fold were every tenant in Ireland made the owner of his farm by a revolutionary act on the part of the State. It is significant, in the highest degree, that from the time of the 'New Departure' to this hour, the conspiracy against our rule in Ireland has clamoured for the expropriation of the Irish landed gentry by force, and for the conversion of their tenants into possessors of these estates; far better informed than British statesmen, it has rightly calculated that this violent change would increase the 'Nationalist' sympathies of the Irish peasant; and this opinion is being confirmed, to a great extent, by the results of 'voluntary purchase' being now developed. The coarse materialist view that bribery will make a class law-abiding and loyal, is opposed to human nature and fact; bribery will not efface ideas, feelings, and tendencies, deep-rooted in history and ancient tradition; above all, if it is a concession to agitation and a rebellious movement, it will only quicken the animosity to the State and the greed of the favoured class. Parnell, I have said, had his mind made up on this subject; he always insisted that the Irish tenant, wherever his holding had been made his own, would be 'more true to the cause than ever;' it is curious that the confident prediction of a most able man appears to have been persistently ignored. For the rest, the mischief 'voluntary purchase' is already doing would be enormously aggravated by the effects of compulsory purchase. The Irish tenant farmers, made



owners of the land everywhere, would, like the present 'purchasers,' cut down woodland wholesale ; the country would be disafforested over an immense area ; the consequences to agriculture would be as bad as possible. Arterial and main drainage too would, as a rule, be neglected ; but these would, comparatively, be trifling results ; the compulsory purchaser would deal with the land as their 'voluntary' fellows are now largely dealing, but, in all probability, more generally, and in much a greater proportion. Holding as they would nine-tenths of the Irish soil at terminable annuities much lower than any rent, they would inevitably subdivide, sublet, and mortgage their farms in tens of thousands of cases ; they would become middlemen, over whole counties, the harsh oppressors of a multitude ground down by rack-rents ; the worst kind of 'landlordism' would be reproduced in the worst aspect. The tendency of events is even now confirming what I wrote a long time ago on this subject : 'Freehold ownership, therefore, would disappear more or less quickly over extensive tracts, the "yeomen" would become a diminishing quantity, and these would be replaced by a new class of landlords with tenants at competition rents, that is, determined by the land hunger of the Celt. The transformation would inevitably go on, for its causes would operate with intense force ; and before many years probably two-thirds of Ireland would have become a land of mere peasant landlords placed over a mass of rack-rented tenants.'\* The creation of a universal 'peasant proprietary,' by force, would, in fact, bring the Irish land system back by degrees into the state in which it was before the Great Famine, when millions of serfdom squatted on the soil, disorganising agriculture and preventing social progress.

\* The *Manchester Guardian*, 1890. I quote this passage, for I think its substance was referred to by the late Mr. Rathbone, member for Liverpool.

These considerations, however, by no means exhaust the case against the compulsory purchase of the rented land of Ireland. Irish landlords have been decried, for an evil purpose, during many years; their position is difficult and open to attack; but if they are an unpopular class, they have been a civilising influence in Ireland of real value, the most civilising influence, perhaps, in her three southern provinces. Their annihilation, despoiled and impoverished as they are, would still withdraw a large fund from Irish rural labour; and it would be most injurious to agriculture in many ways, especially as regards main and arterial drainage, an absolute necessity for the Irish soil, and scarcely possible except under a system of large estates. Their extinction, too, Englishmen ought not to forget, would deprive the State of one of its mainstays in Ireland; the idea to the contrary growing up is a mere delusion; it was not for nothing that Parnell and Davitt described this order of men as 'the British garrison,' and insisted that were it once out of the fortress the power of England in Ireland would certainly perish. The conversion of Irish farmers universally into landowners would also have a ruinous effect on many Irish industries. It would do infinite harm to many branches of commerce, especially to trades of the higher type; it would be disastrous to such towns as Dublin and Belfast, already beginning to protest against it; and, whatever may be said, the prospect of it is dreaded by agricultural Irish labourers as a class, which has always been ill-treated by their masters, the farmers, though, owing to the influence of priests and demagogues, they are unwilling to express the sentiments they really feel. Compulsory purchase, in fact, is by no means so generally asked for in Ireland as is supposed; her representation demands it by a great majority of votes; but this representation, as I have pointed out before, is not a true index of Irish opinion. Another consideration, too, should be taken into account

in coming to a reasonable conclusion on this subject. The land system of England and Scotland, from a variety of causes sufficiently known, is essentially different from that of Ireland ; politically, socially, economically, it has little in common with it. But were Parliament to declare that the whole tenant class of Ireland were to be transformed into fee simple owners, subject only to renders, much less than true rents, and payable for a short space of time, I much doubt if English and Scottish tenants would acquiesce, and would not agitate for legislation of a similar kind, especially as British agriculture is still heavily depressed. Leaseholders of large houses in towns, for long terms of years, at ground rents, and a whole class of builders, assuredly would join in such a demand ; the contagion of revolution and socialism is always perilous. English and Scottish landlords have usually played the part of the Jew to the Samaritan as regards their Irish fellows ; but 'proximus ardet Ucalegon' might be borne in mind.\*

\* Mr. Lecky, 'Democracy and Liberty,' vol. ii. pp. 487-489, rather favours the policy of creating and extending peasant ownership in Ireland, and, to a certain extent, approves of the so-called 'Land Purchase' Acts, but only as a doubtful experiment, to endeavour to escape from a hopelessly bad land system. The distinguished historian and thinker, in my opinion, is not sufficiently alive to the iniquity of these measures as they affect landlords who wish to retain their estates, or, rather, what remains of them ; but he clearly perceives some of the objections to this vicious legislation. I quote his remarks at some length : 'In Ireland, as is well known, great efforts are made to create such a proprietary ; but the conditions of Ireland are unlike those of any other part of the civilised globe. It has been the deliberate policy of the Government to break down, by almost annual Acts, the obligation of contracts, and the existing ownership of land has been rendered so insecure, the political power attached to it has been so effectually destroyed, and the influences tending to anarchy and confiscation have been made so powerful, that most good judges have come to the conclusion that it is necessary to force into existence by strong legislative measures a new social type, which may, perhaps, possess some elements of stability and conservatism. In order to effect this object, the national credit has been made use of in such a

The Irish land system, therefore, from every point of view, is simply in a deplorable state ; it is an economic

way that a tenant is enabled to purchase his farm without making the smallest sacrifice for that object, the whole sum being advanced by the Government, and advanced on such terms that the tenant is only obliged to pay for a limited number of years a sum from 20 to 30 per cent. less than his present rent. In other words, a man whose rent has been fixed by the Land Court at £100 a year, can purchase his farm by paying, instead of that sum, £70 or £80 a year for forty-nine years. The arrangement sounds more like burlesque than serious legislation ; but the belief that political pressure can obtain still better terms for the tenant, and that further confiscatory legislation may still more depreciate the value of land to the owner who has inherited it, or purchased it in the open market, has taken such deep root in Ireland that the tenants have shown little alacrity to avail themselves of their new privilege. What may be the ultimate issue of the attempt to govern a country in complete defiance of all received economical principles remains to be seen. The future must show whether a large peasant proprietary can be not only called into existence, but permanently maintained, under these conditions, and whether it will prove the loyal and conservative element that English politicians believe. According to all past experience, peasant proprietors rarely succeed, except when they possess something more than an average measure of industrial qualities, and the Irish purchase laws give no preference to the energetic, the industrious, and the thrifty. On the contrary, it is very often the farmer who is on the verge of bankruptcy who is most eager to buy, in order to reduce his annual charge. The tendency of the new proprietors to mortgage, to sublet, and to subdivide, is already manifest, and some of the best judges of Irish affairs, who look beyond the present generation, are very despondent about the future. They believe that a peasant proprietary, called into existence suddenly and artificially, with no discrimination in favour of the better class, in a country where industrial qualities are very low, and where the strongest wish of the farmer is either to divide his farm among his children, or to burden it with equal mortgages for their benefit, must eventually lead to economic ruin, to fatal subdivision, to crushing charges on land. The new policy must also, they contend, almost wholly withdraw from the country life, where it is peculiarly needed, the civilising and guiding influence of a resident gentry. Whether or not these apprehensions are exaggerated time only can show. Two predictions may, I think, with some confidence be made. The one is, that the transformation is likely to be most successful if it is gradually effected. The other is, that a great part of the influence once possessed by the landlord will, under the new conditions, pass to the money-lender.'

and social chaos, pregnant with mischiefs and dangers of many kinds. Confiscation has wrought its work on the Irish landlord ; has shaken the structure of Irish society ; and has produced its inevitable results in banishing capital from the land, and in dealing a weighty blow to Irish credit. The legislation of 1881, and of subsequent years, has conferred immense advantages on the tenant class in Ireland ; but these have fallen short of what might be supposed ; this class declares itself to be dissatisfied with its lot ; it is clamouring for the wholesale transfer to itself of the rented lands of Ireland, through what is known as compulsory purchase, that is, corruption and spoliation combined in an act of the State. And these efforts of legislation, essentially unwise, in direct conflict with fact and economic science, a mere makeshift to stave off agitation and trouble, are, in all probability, by no means the worst. Demoralisation has spread throughout Irish landed relations, affecting them, unfortunately, in many ways ; divisions of class have been made worse, as well as the old divisions of race and faith ; respect for contracts and obligations has been destroyed ; dishonesty and thriftlessness have been favoured, and industry and honesty not encouraged ; an evil spirit of discontent and desire for change is abroad ; agriculture is plainly on the decline ; there is nothing secure or settled in the land. Vicious as the Irish land system unquestionably was before Mr. Gladstone first took it in hand, I believe that, having regard to the general interests of the State, it is still more vicious at the present time ; it has been transformed, but, on the whole, transformed for the worse. As I wrote before, when commenting on the position of affairs in Ireland, before the Land Act of 1870, a revolution only could have removed the deep-rooted ills in all that related to the land ; a revolution alone could remove them now. But in the one instance, as in the other, the evil caused by a revolution would be infinitely greater than the good ; a new agrarian

revolution in Ireland would be a curse to her ; it is better, as Burke has remarked, to try to repair even ruins than to blot out every trace of the edifice. Still, taking it as we find it, can nothing be done to amend, in some measure, at least, the existing land system? Much of it, I admit, must be left untouched ; the principle of settling rent, through the agency of the State, false as it is, must continue to work ; the principle of so-called 'land purchase' must, within reasonable limits, be still given free scope. But something in the nature of reform is, I think, possible ; the discussion of the subject may be of use ; I contribute my mite to it, if with unfeigned diffidence.

In order to find out the truth, and thoroughly to clear the ground, a Commission, I suggest, ought to be appointed, as important as the Devon Commission of nearly sixty years ago ; it should investigate the Irish Land Question in all its branches. Its President should be a great English nobleman—the nation would have confidence in the Duke of Bedford, a princely and most liberal English landlord ; but the judicial element should be strong in it ; English and Irish judges should be among its members ; it should include trained agricultural experts : it should have representatives of Irish landlords and tenants. It should examine the Irish land system as this existed before 1870 ; should review the whole series of Irish Land Acts, from 1870 to the present time, and inquire into their results and tendencies ; should carefully consider the operation of the tribunals selected to carry out the new Irish land code, especially as regards the fixing of 'fair rents,' and that not with respect to their procedure only, an unjust limit imposed on the Fry Commission, but with respect to the principles that have been adopted and the methods pursued ; it should deal exhaustively with the subject of so-called 'land purchase,' and see whether it has not directly led to the demand for compulsory purchase ; it should take evidence as to 'peasant proprietary' and its creation ; and

it should make a complete and searching report, with a view to the legislation it might recommend. And if I am not altogether mistaken, such a Commission would state, in emphatic language, that the present Irish land code was ill designed, even if it cannot be now much changed; that its administration has been attended with grave errors; that cruel wrong has been done to Irish landlords, while Irish tenants have not obtained what was hoped for; that the economic and social results have been deplorable; that if 'land purchase' cannot be stopped, it is a bad expedient on its present lines, and that the cry for compulsory purchase has been its evident effect; and that extensive, still more universal peasant ownership, is an impossible and would be a pernicious policy. Finally, if I am not much mistaken again, such a Commission would report that a reform of the Irish land system, if very difficult, should be attempted; and that, in its main scope and operation at least, it should be carried out on the side of land tenure, that is, in the relations of landlord and tenant, as has been the opinion of every thinker from Burke onwards, who has not been swayed by the exigencies of agitation, or of party politics.

I proceed briefly to put my scheme forward, assuming that I have made a reasonably correct forecast. I may say it has been a subject of reflection during many years, indeed, since the legislation of 1881; Mr. Gladstone, in his place in the House of Commons, pointedly approved of a tract in which I set forth my views; and so, curiously enough, did Parnell. It is impossible, I have said, to transform the existing system of Irish land tenure; a wide departure from it cannot be made; but improvement is really feasible within certain limits. My object would be to get rid of palpable evils, inseparable from the present state of things; to make the positions of both Irish landlords and tenants in some degree better than they now are; to place the Irish land system on a somewhat less

precarious basis. In the first place, the law as to the exemption of tenants' improvements from rent, an excrescence on the Land Act of 1881, and made extravagant by the Land Act of 1896, should be restricted in its application to some extent ; as it stands, it is a fruitful cause of injustice, of demoralisation, and of hard swearing, producing endless litigation to very little purpose ; claims in respect of improvements ought to be more limited, in point of time, than they are ; a check should be placed on obsolete and illusory claims ; this would be advantageous, I think, to all interests involved. Again, it would be impracticable to exclude from the operation of the present land code lands that have been already brought within its scope ; but a more precise definition should be made of the lands that are intended to be now excluded—demesnes, town parks, residential holdings, and large pastoral farms ; the decisions of the Courts, in this province, are very perplexing ; a good definition would make litigation very considerably less. These changes, I am convinced, would do much appreciable good ; but I would go a long way farther in attempting to make the status of both landlord and tenant in Ireland less insecure and vexatious than it now is. In the first place, leaving lands now excluded out, I would make all agricultural and pastoral Irish tenants entitled to the tenure of the 'Three F's,' removing the prohibition as to 'future tenants,' a distinction that never ought to have been made, and, as far as possible, securing this mode of tenure to the poorest tenants, by means to which I shall advert afterwards. In the next place, I would make an earnest effort to lessen the ruinous litigation and the instability caused by the statutory leases renewable at short intervals of time. The tenant should have 'fixity of tenure' in a real sense ; the estate created in his favour against the landlord ought not to be one of fifteen years only, however indefinitely it may be extended ; I would prefer to see it an estate for ever ; but, as in the



present state of agriculture, there would be objections to this, on account of the uncertainty of the rate of rent, it might be an estate for a limited term. But the term ought not to be less than thirty years at least, renewable, of course, like the shorter term of fifteen ; this would quiet possession and get rid of lawsuits for the period of a generation of men. The tenant should retain his right of 'free sale ;' but I would make the conditions less stringent than they are under the existing law.

The position of the Irish tenant would thus be greatly improved ; the sphere of the 'Three F's' would be largely extended ; he would have 'fixity of tenure,' for a long time, at least, without the hazard and loss of litigation every fifteen years ; his right of 'free sale' would be less restricted ; and he would have distinct advantages, as respects 'fair rent,' under the part of my plan I am about to explain. I turn to the position of the Irish 'landlord'—I still use this expression and that of 'tenant,' though both words are hardly applicable to existing facts ; this, too, in my judgment, would be made much better. The estate that is now created against him would still be preserved ; I wish it were a perpetual estate, but it would be one for thirty years at least ; he would, therefore, remain assimilated to a rent-charger, as he is at present. But like his tenant he would be comparatively free from lawsuits ; he would be less harassed by claims in respect of improvements ; he would have, in many particulars, a more stable tenure. He should, of course, retain the 'royalties' still reserved to him—mines, minerals, timber, and such things ; and he should have the title to the statutory conditions he now has ; but as his reversionary rights would be somewhat lessened, he should be compensated for these by a small money payment. With one great exception he should have the legal remedies to enforce the rights he now possesses ; and that exception would be of great importance. I have always thought the

law of ejectment for non-payment of rent harsh ; it is an innovation on the ancient Common Law ; it sometimes causes forfeitures far from just ; it is not properly applicable to tenancies of long duration. I would certainly abolish this mode of procedure ; I would instead of it give the landlord a power to sell the tenant's lands, by a procedure analogous to that of bankruptcy, should default be made in the payment of the rent, or rather the rent-charge that might be due. The advantage to both landlord and tenant would be great : the first would have a remedy more expeditious and just than he has ; the second, should the land be sold and lost to him, would, as a rule, have a surplus over and above his debts ; unlike what is sometimes the case in evictions, he would realise for himself his whole legitimate interest in the land. This single reform would do much to make 'fair rent' a less onerous charge than it now is.

By these means the status of the Irish landlord would be made by many degrees more secure ; the Irish tenant would acquire an interest in the land much more durable and stable than he has now, in fact, nearly equivalent to full ownership, subject to a rent-charge ; and if his interest were made a perpetuity, as I hope would be the case at last, he would be assimilated to an owner subject to a perpetual rent, or to an English copyholder subject to a similar render. This is the position Burke proposed he should have, considerably more than a century ago ; \* it

\* I quote these remarks of Burke, a striking instance of his political wisdom ('Tracts on the Popery Laws,' vol. ii. p. 446) : 'It is on this principle (to get rid of short and unprofitable tenures) that the Romans established their *emphyteusis*, or fee-farm. For though they extended the ordinary term of their creation to nine years only, yet they encouraged a more permanent letting to farm, with the condition of improvement, as well as of annual payment where the land had lain rough and neglected.' So John Stuart Mill ('Irish Land Question,' p. 31, ed. 1870) : 'The idea of property does not, however, necessarily imply that there should be no rent, any more than that there should be no

is that which has been advocated by John Stuart Mill, and, I am happy to add, by Mr. John Morley ; it is the only position, compatible with common sense and justice, which the new Irish land code has left possible, for I put the quackery of compulsory purchase out of sight, and voluntary purchase is a bad half-measure. The great subject of fixing rent by the State would remain ; for, unjustifiable as this expedient is, it is impossible, after what has happened, to dispense with it. Without imputing personal motives or moral blame to any one, the Land Commission and its Sub-Commissions ought, I am convinced, to cease to be the agency to fix 'fair rents ;' however unconsciously, in my judgment, they have often proceeded on false principles, and have done immense, if not wilful wrong ; they are decried by landlords and tenants alike in Ireland. Besides, there is a constitutional objection to their adjusting rent ; the Land Commission is entrusted with the task of carrying out 'land purchase ;' it has a direct inducement to whittle rents away, in order to facilitate the sale of land ; its interest and its duty are thus placed in conflict. Be this as it may, my plan for fixing 'fair rents' in Ireland by the State would be altogether different. In the first place, a definition of 'fair rent' should be made by statute, and should dominate, so to speak, the subject ; the omission of this criterion has caused grave injustice. This having been made, I would adjust Irish rents by a method much better, I believe, than that now in existence. A body of competent and well-paid valuers of land should be formed

taxes. It merely implies that the rent should be a fixed charge, not liable to be raised against the farmer by his own improvements, or by the will of a landlord. A tenant at a quit rent is, to all intents and purposes, a proprietor ; a copyholder is not less so than a freeholder. What is wanted is permanent possession on fixed terms.' Mr. Morley said not long ago, in his place in Parliament, that, as things now stand in Ireland, the landlord must become a rent-charger and the tenant a copyholder, a true utterance.

—there would be no difficulty about this in Ireland ; these men should visit, when required, estates ; and having heard what landlords and tenants had to say on the spot, should declare what they consider the ‘ fair rents ’ of farms, making a deduction for improvements as arranged by a reformed law, and taking waste and deterioration into account. The reports made by the valuers should be complete and explicit ; they would probably satisfy landlords and tenants in most instances ; but dissatisfied persons should have a right to an appeal, which should be a full rehearing of all the facts in issue ; but the appeal should be at the peril of costs against unsuccessful suitors. The tribunals to decide the appeals should, I suggest, be composed of two eminent judges, for each of the four provinces, assisted by trained agricultural experts ; but the authority of the judges should prevail on all questions. From these Courts a further appeal should run to the Court of Appeal in Ireland, on all matters of law and fact, and ultimately should run to the House of Lords ; the present restricted appeal to the Land Commission has been little better than a sorry mockery of right.

The scheme I propose has obvious defects ; it sanctions the vicious principle of State-settled rents, a thing unknown in lands outside of Ireland, a defiance of the simplest axioms of economic science. But it endeavours at least to improve a bad system of tenure dealing with accomplished facts now beyond recall ; I certainly think it would make the relations of Irish landlords and tenants better than they are, and would tend to place both classes in the positions which, as affairs now stand, they will probably, in the long run, occupy. As regards ‘ alternative policies,’ as they have been called, I have set forth the reasons that the compulsory purchase of the Irish land would be, I believe, impossible, and, were it possible, would be a confiscation of the foulest kind, ruinous to Great Britain and Ireland alike. I have also shown how

the present system of so-styled 'voluntary purchase' is, in my judgment, essentially immoral, and pregnant with dangers; and I have indicated the results being already produced. That system, however, must go on; for the present it cannot be arrested; a Conservative Government still pins its faith on it, as a Whig Government, half a century ago, pinned its faith on the Encumbered Estates Act; but a 'peasant proprietary' rooted in corruption will hardly succeed, and 'voluntary purchase' draws the worst kind of distinctions in Irish land tenure. The acceleration, indeed, of this 'remedy' has been deemed advisable; and as long as the sum voted by Parliament is not expended, the system evidently must continue in force. Some of its evils, however, would be lessened were the State to reserve to itself the woodland, which tenant 'purchasers,' as a rule, cut down and sell; and if tenants proved to be solvent were compelled to advance part of the money required to transfer their lands to themselves. It is revolting to my mind to see a wealthy Irish farmer bribed into the ownership of his farm by an Act of the State, without having paid a shilling of the price. I commend this spectacle to the hard-pressed general taxpayer.

I need hardly say that, under the scheme I propose, existing interests of tenants should remain intact, and statutory leases should be allowed to come to an end, before a change should be made by law in the position they hold. The question of compensating the Irish landlords would remain; a very few words on this will suffice. I must remind the reader, as I have already shown, that the Land Act of 1881 was passed on the condition that, should experience prove that real injury had been done to this order of men, their right to indemnity would be plain; Mr. Gladstone's language was unequivocal; the House of Commons approved. Nor can any reasonable doubt exist that the course of legislation from 1881 to 1896 has confiscated the property of the class to an immense extent;

the simple fact that the value in Ireland of the fee simple in land has been reduced by a third at least, and that the value of the tenant right has been increased in about the same proportion, points to a conclusion evident to impartial minds. I am satisfied as to what would be the report on this subject of the Commission I should wish to see appointed ; it could not avoid drawing an inference that cannot be resisted. The question, therefore, will have to be faced ; the good faith of Parliament is virtually at stake ; and if a pledge made in the name of the State is not to be broken, the right of the Irish landlords to compensation is complete. Independently, too, of considerations of this kind, it is a recognised principle that should a policy have caused loss to a class, the State is morally bound to make the loss up ; a violation of this principle is unjust and dangerous alike. I quote from John Stuart Mill on this very question : 'The principle of property gives the landowners no right to the land, but only a right to compensation for whatever portion of their interest in the land it may be the policy of the State to deprive them of. To that their claim is indefeasible. It is due to landowners and to owners of any property whatever, recognised as such by the State, that they should not be dispossessed of it without receiving its pecuniary value, or an annual income equal to what they have derived from it. If the land was bought with the produce of the labour of themselves or their ancestors, compensation is due to them on that ground ; even if otherwise, it is still due on the ground of prescription. Nor can it ever be necessary for accomplishing an object by which the community altogether will gain, that a particular portion of the community should be immolated. When the property is of a kind to which peculiar affections attach themselves, the compensation ought to exceed a bare pecuniary equivalent. . . . The legislature, which, if it pleased, might convert the whole body of landlords into fundholders or pensioners, might,

*à fortiori*, commute the average receipts of Irish landowners into a fixed rent-charge, and raise the tenants into proprietors; supposing always that the full market value of the land was tendered to the landlords, in case they preferred that to accepting the conditions proposed.' \*

Assuming, then, the case for compensating the Irish landlords to have been made out, compensation can be afforded without the loss of a shilling to the State. The *bonâ fide* encumbrances on their estates, that is, those which represent advances in cash, are now at an interest of from 4 to 5 per cent.; the State could pay off those which were perfectly secure at an interest of  $2\frac{1}{4}$  per cent., and could make the landlords chargeable with interest at 3 per cent., in order to provide against possible loss. As for encumbrances that were not perfectly secure, the State should only pay off what was well charged; but it should do this on the same conditions; and it should declare hopeless encumbrances extinct. This would be a considerable and just boon to the Irish landlords; the

\* 'Principles of Political Economy,' book ii. chap. ii. p. 6. I may refer, too, to these pregnant remarks of Bentham ('Theory of Legislation,' chap. xv.): 'The principle of security requires that reform should be attended with complete indemnity. . . . I cannot yet quit the subject, for the establishment of the principle of security demands that error should be pursued in all its retreats. . . . The interest of individuals, it is said, ought to yield to the public interest; but what does that mean? Is not one individual as much a part of the public as another? The public interest which you introduce as a person is only an abstract term; it represents nothing but the mass of individual interests. . . . Individual interests are the only real interests. Take care of the individuals; never molest them, never suffer any one to molest them, and you will have done enough for the public. . . . I shall conclude by a general observation of great importance. The more the principle of property is respected, the stronger hold it takes on the popular mind. Slight attacks on this principle prepare the way for heavier ones. A long time has been necessary to carry property to the point where we now see it in civilised societies; but a fatal experience has shown with what facility it may be shaken, and how easily the savage instinct of plunder gets the better of the laws.'

securities taken by the State should be in the form of debentures, which would pass from hand to hand in the market; and many owners of encumbrances would no doubt accept sums less than their full demands, for these, they well know, are at present in danger. I would go, however, farther in relieving the Irish landlords; their estates are subject to a mass of family charges created under a different order of things; if the State has arbitrarily cut down the fund set apart for these, by a wholesale reduction of rents, I cannot understand how it is not the simplest justice to cut the charges down in some fair proportion. At all events, I make these suggestions for what they may be worth; if right is to be done to the Irish landed gentry, and a gross breach of public faith is not to be made, some relief of this kind should be extended to them. Very possibly this will not be afforded; but I venture to remind politicians that even an unpopular class cannot be cruelly wronged and sacrificed, without doing injury to all classes, and shaking to their foundations the clear rights of property. And I openly avow that, in my judgment, it would be in the highest degree against the national interest to annihilate this body of men, as must probably happen, should things in Ireland be left as they are. What if they are the heirs of conquest and confiscation in the past? Is that a reason for destroying them after the lapse of centuries, and when England planted them in the land to be her mainstay? What if, in instances, comparatively few in the extreme, they have abused the social trust imposed on them? Was not this because the opportunity was given by law, and was not the law the work of successive Parliaments? Is it not a fact that British ministers, so to speak, of yesterday, declared that they were secure in their proprietary rights; and that Mr. Gladstone solemnly acquitted them of what had been laid to their charge? On the other hand, have they not been for ages the staunchest friends of England



in Irish affairs, especially in troubled and perilous times? Is it for nothing that they have been called the British garrison by her foes, the strongest obstacle to rebellion and treason? And is a class, which has, on the whole, been a civilising influence, for many years, in Ireland, and which has given the State far more than a due proportion of worthies—warriors, orators, statesmen, thinkers, men of eminence in all the arts of life—to be sacrificed at the bidding of a conspiracy bent on subverting British rule in Ireland, or in deference to false and perilous theories?

## CHAPTER VII

### THE QUESTION OF THE FINANCIAL RELATIONS BETWEEN GREAT BRITAIN AND IRELAND

The subject briefly considered—Financial position of Ireland before 1782, and under Grattan's Parliament—Her taxation and debt small before 1798—Ireland financially a distinct country—At the Union, Pitt wished to 'assimilate her in finance' with Great Britain, but this impossible, and why—Ireland's contribution after the Union—This was unjust, but it left her financially a distinct country—Ireland made nearly bankrupt—The compromise of 1816—The Irish Exchequer closed, and the Irish and British debts consolidated—The object of the compromise was rather to relieve Ireland from her burdens than to assimilate her in finance with Great Britain—She still remained for many years financially distinct from Great Britain, and is so still to some extent—The conduct of Peel a striking proof of this—Mr. Gladstone imposes the income tax on Ireland, and her spirit duties are largely raised—Injustice of this policy—The Committee of 1863-64—Ireland does not obtain financial justice—The Report of the Childers Commission made upon a reference by Mr. Gladstone following Mr. Goschen—The Commission declares that Ireland has been greatly overtaxed for many years—Evidence on which it has founded this conclusion—Examination of arguments to the contrary—Another Commission promised, but the promise not fulfilled—Importance of settling this question.

THE financial relations between Great Britain and Ireland have been a subject, at intervals of time, no doubt, of strong controversy during a whole century. I shall not harp on the saying of Johnson to an Irish friend, 'Avoid a Union with England, she will only rob you;' but, in the opinion of well-informed Irishmen, the fiscal

treatment of Ireland, since 1800-01, strikingly illustrates the significant remark of Burke, 'When any community is subordinately connected with another, the great danger of the connection is, the extreme pride and self-complacency of the superior, which, in all matters of controversy, will probably decide in its own favour.' There is no reason to impeach the good faith of Pitt and Castlereagh; but the financial arrangements they made for Ireland, when the Union became law, were denounced by the most distinguished Irishmen of the day; these imposed on Ireland an overwhelming burden, and, in fact, reduced her to the very edge of bankruptcy. A compromise was effected in 1816-17; this has been described as a generous boon to Ireland; but it was at best a slight relief from injustice; and it weakened securities she had against fiscal exaction, while it involved her in liabilities which, if remote, were not the less possible. It is a most significant fact that Peel, who, as Chief Secretary from 1812 to 1818, was familiar with the economic state of Ireland, refused, though under the strongest inducements, to apply to Ireland the fiscal charges extended to her by one of his brilliant successors; the most sagacious financier of the nineteenth century played, in this matter, a very different part from the most impulsive and not the least unscrupulous. In 1853, and from thence in other years, Mr. Gladstone, in order to carry out a policy distinctly opposed to many Irish interests, subjected Ireland to a sudden and heavy load of taxation, exactly at the time when, for the plainest reasons, she ought to have been exempted from it; from that day to this, Irishmen, who understand the question, are agreed that this was gross, nay, cruel, injustice. The whole subject of British and Irish financial relations was sent by Mr. Gladstone to a Commission in 1893, here following the example of Mr. Goschen; a careful inquiry was held during many months; the Report of the Commission was startling and important in the extreme. This

tribunal, mainly composed of eminent English experts, announced, and that almost with one voice, that Ireland was being enormously overtaxed, and had been for upwards of forty years ; and it plainly intimated that a remedy for this wrong should be found. No real answer has been made to this remarkable judgment ; the attempts at answers that have been made are nearly all mere trifling ; Lord Salisbury's Government evidently believes that an answer is not possible ; it promised to appoint another Commission to investigate certain parts of the subject ; years have passed, and it has not performed its promise. Meanwhile, even amidst the hurly-burly of Irish politics, Irishmen of all parties have united in a demand for redress ; and if the demand is not pressed with extreme vehemence, it is sustained by all that is best in Irish opinion. It is obviously unwise, and it may become dangerous, to continue to ignore such a claim ; in any event the financial relations of the Three Kingdoms are not the least important of 'Present Irish Questions ;' I shall briefly examine it in this chapter.

It is unnecessary to dwell on the financial relations of Great Britain and Ireland before 1782 and the Union. England held the position of an absolutely dominant State before 1782, Ireland that of a conquered and despised colony ; Ireland was under the control of the British Parliament, and was governed by English officials supreme at the Castle. Ireland was excluded from the foreign and colonial trade of Great Britain ; her agriculture and manufactures were half destroyed by the selfish jealousy and greed of her imperious neighbour. She contributed, on the other hand, nothing to the treasury of the ruling power ; she had little or no part in British wars, or in building up the edifice of the Empire, except through her soldiers in the British army ; she was free from British debt and from British taxation. In these circumstances, grievous as was the incubus of Protestant ascendancy upon the

land, it is remarkable what material progress she made ; her Parliament, though little more than a local vestry, unquestionably promoted her material welfare ; she was very lightly taxed, and was free from debt for many years. She was still so completely distinct from Great Britain, that it was not until 1769 that her Parliament agreed that 15,000 men, of whom 12,000 were to remain in Ireland, should be enrolled for the defence of the State ; before that time, she was only obliged to maintain a small British force within her borders. After a partial relaxation of the restraints on her commerce caused by the stress of the American War, and by the famous volunteer movement, Ireland obtained legislative independence in 1782 ; she ceased to be subject to the British Parliament, and to fill the position of a degraded colony ; she became, in theory at least, an independent State in many respects. Her Parliament was all but sovereign in name ; Ireland was now united to Great Britain only by the link of the Crown ; by an executive always despatched from Downing Street ; and, it must be added, by the corruption of her Houses of Lords and Commons. She was thus more than ever a distinct country ; in fact, most British statesmen had soon perceived that the celebrated settlement of 1782 greatly weakened her old connection with England. She advanced, however, markedly in prosperity for many years, until the French Revolution arrested this ; her debt was little more than £2,000,000 for a long time, her taxation only about £1,000,000. But by the close of the eighteenth century these figures had been disastrously changed ; her debt had risen to upwards of £28,000,000, her taxation to about £2,500,000. This great increase had been partly caused by the costly expenditure of her transformed Parliament, which had spent considerable sums on public works, and on economic experiments of different kinds ; but five-sixths of it was probably caused by the enormous charge incurred by the Rebellion of 1798—one of the most woeful tragedies

of Irish history—and by the suppression of that ill-starred movement.\*

The Rebellion led at once to the Union ; it precipitated what had perhaps become a necessity of State. The great measure of Pitt was badly designed, and was, moreover, tainted by a grave breach of faith ; it was only what was called a 'Protestant Union,' that is, it rested upon false and narrow foundations ; it deceived Catholic Ireland, and did her gross wrong ; above all, it did not effect its main object, and incorporate the lesser with the more powerful country. It left Ireland, hitherto completely distinct, still, to a very considerable extent, a distinct State ; she retained a separate Government and Administration, separate Courts of Justice, a separate Exchequer for many years ; this shadow of separation, as Foster, one of her ablest worthies, foretold, would give a demand for separation substance.† The financial arrangements between Great Britain and Ireland were practically altogether the work of Pitt. A disciple of Adam Smith, the minister's wish was to 'assimilate the two countries in finance ;' to place both under the same fiscal system, to make taxation in both uniform. But in 1800, the National Debt of Great Britain was more than £446,000,000, and her taxation was

\* For the constitutional position of the British and Irish Parliaments before the Union, see Hallam's 'Constitutional History,' vol. iii., chapter on Ireland, and Ball's 'Legislative Irish System,' chaps. v., xv. See also Lecky's 'History of England in the Eighteenth Century,' vol. ii. chap. vii. ; vol. iv. chaps. xvi., xvii. As to the financial position of the two countries, see the opening pages of each of the Reports of the Childers Commission.

† Grattan described this vicious state of things in his inimitable style ('Speeches,' p. 258, ed. published by Duffy) : 'The Union is not an identification of the two nations ; it is merely a merger of the parliament of one nation in that of another. . . . There is no identification in anything save in legislature, in which there is complete and absolute absorption. It follows that the two nations are not identified, though the Irish legislature be absorbed, and by that act of absorption the feeling of one of the nations is not identified, but alienated. The petitions on our table bespeak that alienation.'

about £3 a head ; the National Debt of Ireland, we have seen, was some £28,000,000, and her taxation by the head not more than 10s. ; this immense inequality made 'assimilation in finance' impossible. Besides, Pitt, as a matter of course, knew that Great Britain was a very rich country, and Ireland perhaps the poorest in Europe ; he was too great a financier to accept the false and shallow theory that, as between two communities wholly unequal in wealth, equal taxes were really equal burdens, and could be just ; he had emphatically remarked in 1785, when his celebrated 'Commercial Propositions' were opposed by the selfish monopolies of British commerce, 'If one country exceeded another in wealth, population, and established commerce in a proportion of two to one, he was nearly convinced that that country would be able to bear near ten times the burden that the other would be equal to.'\* It had become necessary, therefore, at the time of the Union, to place the financial relations between Great Britain and Ireland on a basis that had nothing in common with uniformity of taxation, and a common fiscal system ; 'assimilation in finance' was for the present to be indefinitely postponed.

The financial settlement made at the Union distinctly embodied these principles, and was carried by Castlereagh through the Irish Parliament, by what methods history records with shame. Like Pitt, the Chief Secretary looked forward to a time when Great Britain and Ireland might be under the same fiscal system ; but at this juncture, this consummation was, he acknowledged, hopeless. Ireland was, financially, to remain a separate country ; she was to have a separate exchequer and separate taxes ; her National Debt was to be kept distinct from that of Great Britain. She was to furnish only a contribution to the State ; and Castlereagh declared, over and over again, that this contribution was to be only in proportion

\* Report of the Childers Commission, p. 20.

to her means, and that in no event was she to be unduly taxed. 'The great point to be ascertained is the best criterion that can be found of the relative means of the two countries, in order to fix the relative proportions of their contributions. . . . As to the future, it is expected that the two countries will move forward together, and unite with regard to their expenses in the measure of their relative abilities.' By a comparison made between British and Irish imports and exports, and between the values of certain commodities, Castlereagh came to the conclusion that the contributions which Great Britain and Ireland ought to be expected to make for the general support and administration of the State, should be, respectively, fifteen- and two-seventeenths, that is, Great Britain was to pay about 88 per cent., and Ireland about 12 per cent. of the sum total. This proportion was to be made liable to revision at the end of twenty years; for this provision, Castlereagh remarked, gave 'Ireland the utmost possible security that she cannot be taxed beyond the measure of her comparative ability, and that the ratio of her contributions must ever correspond with her relative wealth and prosperity;' and then followed arrangements which undoubtedly had the 'assimilation of Great Britain and Ireland in finance' remotely in view; but subject to limitations that would preserve for Ireland her fiscal rights, and would secure her from taxation beyond her means, and unjust. It was proposed that if, at some future time, the debts of both countries should be discharged, or if their debts and their contributions were in the same proportion, Great Britain and Ireland might be 'assimilated in finance,' and placed under the same fiscal system; but this was to be on two express conditions, that the circumstances of the two countries should admit of this change, and that, in any case, should the change be made, Ireland—as was the case of Scotland when her Union took place—should have the benefit of such 'exemptions and abatements' of



taxation as might be deemed proper, and the circumstances of the situation might allow. The meaning of the technical words, 'exemptions and abatements,' interpreted of late years in a pettifogging sense, was fully recognised at the time, and for a long subsequent period, indeed, has been recognised to this day by most of our leading statesmen, namely, that Ireland was not to be taxed unfairly or beyond her resources, as Castlereagh had repeatedly promised.\*

The Opposition in the Irish Parliament had many able lawyers—the names of Saurin, of Plunket, of Bushe are still known to fame; it is to be regretted, perhaps, that these powerful minds did not examine with more jealousy the conditions under which Great Britain and Ireland might be 'assimilated in finance,' distant as the contingency appeared to be; did not criticise more sharply words that might be wrested from their accepted sense; and trusted too much to Castlereagh's phrases. But the attention of the Opposition was rather directed to the Union in its political than in its financial aspect; it rather denounced

\* I transcribe this part of the seventh article of the Treaty of Union; I believe that I have fairly described its purport (Report of Childers Commission, p. 140): 'That if at any future day the separate debt of each country respectively shall have been liquidated, or if the values of their respective debts . . . shall be to each other in the same proportion with the respective contributions of each country respectively. . . . And if it shall appear to the Parliament of the United Kingdom that the respective circumstances of the two countries will thenceforth admit of their contributing indiscriminately by equal taxes imposed on the same articles in each, to the future expenditure of the United Kingdom to declare that all future expense thenceforth to be incurred, together with the interest and charges of all joint debts contracted previous to such declaration, shall be so defrayed indiscriminately by equal taxes imposed on the same articles in each country, and thenceforth from time to time, as circumstances may require, to impose and apply such taxes accordingly, subject only to such particular exemptions or abatements in Ireland, and in that part of Great Britain called Scotland, as circumstances may appear, from time to time, to demand.'

the attempt to destroy the settlement of 1782 than scrutinised the terms of the fiscal system to be imposed on Ireland, at least, as these were concerned with the future. The arrangements, nevertheless, by which Ireland was to make the contribution of the two-seventeenths were fiercely assailed in both the Houses in College Green; Foster described the calculations of Pitt and Castlereagh as utterly false, and declared that the charge to be borne by Ireland was much too large; Grattan echoed this opinion in characteristic language: 'Though I do not think the means of this country are unequal to any necessary expense, yet I do think they are inadequate to that contributory expense which the Union stipulates. . . . The attempt will exhaust the country, at the same time that it enslaves her. Colour it as you please, Ireland will pay more than she is able. Considering these the terms of the Union so far as they relate to revenue, they amount to a continuation of the double establishment, an increase of the separate establishment, and a military government, with a prospect of soon succeeding to the full taxes of England.'\* The Opposition, too, in the Irish House of Commons loudly protested: 'Your Majesty's faithful Commons are satisfied that this calculation is extremely erroneous; and that on a just and fair inquiry into the comparative means of each country, the Kingdom ought not, and is not able to contribute anything like that proportion.'† And twenty Irish peers placed this emphatic protest on record; I have space for a few sentences only: 'Under such circumstances, it appears to us that if this Kingdom should take upon herself irrevocably the payment of two-seventeenths of these expenses, she will not have means to perform her engagements unless by charging her landed property with 12s. or 13s. in the pound; it must

\* Grattan's speeches, quoted in a memorandum supplied to the Childers Commission by Sir Edward Hamilton, p. 9.

† 'Minutes of Evidence,' Childers Commission, vol. i. p. 329.

end in the draining from her her last guinea, in totally annihilating her trade for want of capital, in rendering the taxes unproductive, and consequently in finally putting her in a state of bankruptcy. We think ourselves called upon to protest against a measure so ruinous to our country, and to place the responsibility of its consequences upon such persons as have brought it forward and supported it.\*

The Treaty of Union left Ireland, financially, still a separate country, paying a fixed contribution for the uses of the State. The great war with France soon broke out again ; England was involved with Napoleon in a life-and-death struggle ; her fiscal resources were strained to the utmost ; her expenditure became prodigious for a series of years. In these circumstances, the debt of Ireland rose from £28,000,000 to upwards of £112,000,000 ; and her taxation from about £2,500,000 to about £4,500,000 ; while the debt of Great Britain advanced from some £446,000,000 to some £737,000,000, and her taxation from some £24,000,000 to £54,000,000 ; the taxation of Ireland being by the head about £1 in 1816, that of Great Britain being about £5, the figures sixteen years before being 10s. and £3. The immense increase in the debt of Ireland, much greater in proportion than that of Great Britain, was certainly due to a large extent to the fact—and this was frankly admitted by Grattan—that the poorer country could not keep pace with the richer in the gigantic charges of the war ; the case, it has justly been remarked, may be compared to a case of this kind : ‘ If one man, A, who has been living at the rate of £100 per annum, arranges to keep house with another man, B, who has for some time been living at the rate of £700 per annum, and to spend £1 for every £7 which B spends, then so long as B continues to live at the same rate as before, the expenses of A will not be increased. But if B begins to live at the rate of

\* Memorandum of Sir Edward Hamilton, p. 9.

£2100 a year, A will have to spend £300 a year, and if his means are not sufficient for this, he must become bankrupt.\* Allowing, nevertheless, for all this, it is not the less certain that the calculations of Pitt and Castlereagh were utterly falsified by the event, and that the warnings of Foster, Grattan, and other well-informed Irishmen, besides the protests made in the Irish Parliament, were verified to the fullest extent; as has been remarked by a distinguished English expert, 'The calculations of Mr. Pitt and Lord Castlereagh, the ministers who promoted the Union, and who declared that Ireland would be able to pay, and ought to pay, two-seventeenths of the joint expenses of the United Kingdom, turned out to be mistaken, and the opinions of Mr. Grattan, Mr. Foster, and other Irish members, who denied that she would be able to contribute so large a proportion, are proved by the event to have been well founded.'†

This contrast, it is hardly necessary to say, to persons acquainted with Irish history, is only one of the innumerable proofs of the ignorance of Ireland too common to British statesmen, and of their too common disregard of the best Irish opinion. In 1815-16, at the close of the war, Ireland was financially in a bankrupt condition; she could not pay the interest on her debt; she could not bear the weight of further taxation; she was exhausted and sucked dry by fiscal injustice. Her social state, too, had become very alarming; her population had rapidly increased, and, mainly depending on the frail potato, was already becoming an incubus on the land; the collapse of the high war prices had caused a sudden fall in rents and the wages of labour; there was general distress in several counties, and Whiteboy and agrarian disorder widely prevailed. The financial position of Ireland was necessarily taken up by Parliament; a Committee of the House of Commons was selected to report upon it. By

\* Report of the Childers Commission, p. 143.

† Ibid., p. 32.

this time one of the contingencies had taken place for the possible 'assimilation in finance' with Great Britain of the much weaker country ; the contribution of Ireland, compared with her debt, was even in less proportion than the contribution of Great Britain to her own ; she had been left far behind in the effort to pay her way. In this position of affairs the Committee made its report, after a long and careful examination of the case ; the House of Commons passed these resolutions in May, 1816 : ' That it is the opinion of this Committee that the values of the respective debts of Great Britain and Ireland, estimated according to the provisions of the Acts of Union, have been, at a period subsequent to these Acts, in the same proportion to each other (within one-hundredth part of the said value), with the respective contributions of each country respectively, towards the annual expenditure of the United Kingdom ; and that the respective circumstances of the two countries will henceforth admit of their contributing indiscriminately by equal taxes imposed upon the same articles upon each, to the future expenditure of the United Kingdom ; subject only to such particular exemptions and abatements in Ireland and in Scotland as circumstances may appear from time to time to demand ; and that it is no longer necessary to regulate the contribution of the two countries according to any specific proportion, or according to the rules prescribed by the Acts of Union, with respect to such proportions. That it is the opinion of this Committee, that it is expedient that all expenses henceforth to be incurred, together with the interest and charges of all debts hitherto contracted, shall be so defrayed indiscriminately by equal taxes to be imposed on the same articles in each country ; and that from time to time, as circumstances may require, such taxes should be imposed and applied accordingly, subject only to such exemptions and abatements in Ireland and Scotland as circumstances may appear to demand. That it is the

opinion of this Committee that such legislative measures should be adopted as may be necessary to carry into further effect the purposes of the said Acts of Union, by consolidating the public revenues of Great Britain and Ireland into one fund, and applying the same to the general services of the United Kingdom.\*

These resolutions were partly embodied in an Act which received the Royal assent in June, 1816. By this law the separate exchequer of Ireland was shut up; there was to be but one exchequer for the Three Kingdoms; all the revenues of Great Britain and Ireland were thrown into a general fund to be applied to the requirements of the State; the separate debt of Ireland was fused into that of Great Britain, the two making a common National Debt. By these means Ireland was relieved from an intolerable load of debt; but those who contend that an immense boon was thus conferred on her, only illustrate the aphorism of Burke referred to before; the matter was decided by the opinion of the dominant power. Ireland, no doubt, was set free from an overwhelming burden; but the burden was one improperly cast on her by the Union; the relief was only a small redress of injustice.† On the other hand, the arrangements of 1816 abolished the contribution of the two-seventeenths, and made Ireland less a separate country, financially, than she had been before; the resolutions of the House of Commons did not all become law, but they at least declared that she might become 'assimilated in finance' to Great Britain at a convenient time, and thus diminished her security against undue taxation; and the amalgamation of her debt with that of Great Britain made her subject, at least conceivably, to a gigantic charge, for which she was not in any way liable. The compromise, however, effected at this time, rather contemplated the relief of Ireland from existing

\* Report of the Childers Commission, pp. 147, 148.

† Ibid., p. 33.

debt than her ultimate 'assimilation in finance to Great Britain,' and the extension to both countries of the same fiscal system. For many years after 1816 Ireland remained, financially, completely distinct from Great Britain, and under a scheme of taxation altogether different. Nor is the reason difficult to seek; she was declared entitled, by the resolutions before mentioned, to the 'exemptions and abatements' secured to her by the Treaty of Union; and the Parliament of that day respected the treaty, interpreting these terms in their true sense, that Ireland was not to be taxed beyond her means. Her fiscal wrongs, besides, from 1800 to 1816, were still fresh in the minds of statesmen; these did not wish to repeat injustice; above all, she had many representatives of real weight at Westminster—Grattan was a tower of strength in himself, and he had very able followers; these men would certainly have fiercely resented attempts to impair the financial rights of their country.

The fiscal systems of Great Britain and Ireland, still altogether distinct, continued nearly on this footing for a series of years. Great Britain was gradually relieved from taxation peculiar to herself, amounting to very considerable sums; Ireland was not relieved in the same proportion; but this was hardly a real grievance; the taxation of Great Britain during the war had been enormously higher than that of Ireland. In 1819–20 the charge on Great Britain, which had been about £5 per head, had been reduced to £3 13s.; that on Ireland, which had been about £1 a head, had been reduced to 15s. 5d.; there seems to have been little to complain of in these figures. Some steps, however, but tentative only, were made by degrees in 'assimilating the two countries in finance,' according to the resolutions of 1816; the duties on tea were made equal for the Three Kingdoms, and the duties on tobacco, as early as 1819; but it deserves special notice that this policy was angrily opposed by many Irishmen in the House

of Commons, the most conspicuous of these being Sir John Newport, a real master of Irish finance, who had been Chancellor of the Irish Exchequer in 1806-07. Still, notwithstanding innovations like these, the fiscal systems of Great Britain and Ireland remained substantially distinct for a long period ; this was notably made manifest as late as 1842. At this time the population of England was in an alarming state ; the Chartist agitation was in full swing ; British commerce was half strangled by heavy duties on foreign imports ; the corn laws crippled and burdened industry. Peel was at the head of his great Ministry ; he began to carry into effect the policy of free trade, inaugurated by Pitt, but unhappily delayed ; in order to accomplish this he had to diminish or get rid of the charges on foreign imports, and generally to substitute direct for indirect taxation. He was under a strong temptation to 'assimilate Great Britain and Ireland in finance ;' but he had been a friend and colleague of Castlereagh ; he understood the true import of the Treaty of Union ; above all, he knew Ireland well for an Englishman ; he had practically been her ruler for nearly six years. In these circumstances he imposed the income tax on Great Britain as an equivalent for many indirect taxes ; but he pointedly abstained from extending the tax to Ireland ; he felt that this would be an act of financial wrong ; and though he increased for a short time the duty on Irish spirits, he took off the increase within a few months. The only 'assimilation in finance' he effected was to make the stamp duties in Great Britain and Ireland equal, and this was rather a legal than an economic reform.

The life of the great minister was prematurely cut short ; time brought with it its changes on its wings. The statesman who had living traditions of the Union and its finance had passed away ; O'Connell had disappeared from the scene ; the representation of Ireland had fallen into a



deplorable state. Meanwhile the free trade policy of Peel had achieved great results in England and Scotland; free trade had given an immense impulse to our manufactures and our foreign commerce; the repeal of the corn laws had wonderfully quickened industry, and had been a magnificent boon to the mass of the people; the prosperity of Great Britain was advancing by leaps and bounds. The development of free trade was the object of nearly all our statesmen; to accomplish this it was essential still further to lessen or to abolish the duties on foreign imports, and to let in the raw materials of manufactures free; indirect taxation was still further to give place to direct. In 1853, and during part of the subsequent period, our finances were in the hands of a minister whose impulsive nature was upheld by a most imperious will, and who, whatever was his policy, seldom stuck at trifles. Apparently without mature reflection, and, it is to be hoped, with little knowledge of the facts of the case, Mr. Gladstone, setting the example of Peel at nought, suddenly subjected Ireland to the income tax, and began to raise the duties on Irish spirits; by 1860 these duties had been more than trebled; and the taxation of Ireland had been increased by upwards of two millions sterling. And what were the circumstances, during a large part of this period, of the country on which this enormous burden had been laid? Ireland, no doubt, had begun to revive from the effects of the catastrophe of 1845-47; but, compared with Great Britain, she was miserably poor; and the Great Famine had shaken her social structure to its base. Two millions of her population had fled from their homes into exile; a large part of the upper and of the middle classes had been involved in ruin; whole tracts of her lands were derelict wastes; her local taxation was exceedingly high. The imposition of this load of taxation on a country in such a condition, unjustifiable in the abstract, and from every point of view, was, in the

existing position of affairs, an act of cruel wrong ; no wonder even one of Mr. Gladstone's colleagues has remarked, measured as is his language, 'We think that if the House of Commons, in the period 1853 to 1860, when the great enhancement of taxation took place, had fully considered the circumstances of Ireland, they would not have felt themselves justified in increasing the taxation of that country by means of the income tax and the equalisation of the spirit duties.' \* At this time, in a word, the future Solon of Home Rule proved himself to be the merciless Draco of Irish finance.

This great increase of taxation, to a considerable extent, 'assimilated Ireland to Great Britain in finance ;' placed the two countries under nearly the same fiscal system ; made the taxes of each not far from equal. This assimilation, however, was still by no means complete—indeed, is not complete to the present day ; Ireland has still fiscal privileges under the Treaty of Union ; and this should be carefully borne in mind. Mr. Gladstone, moreover, when he made this increase, acknowledged that Ireland remained a distinct country, entitled to immunities of her own ; when he made her liable to the income tax, he cancelled a debt of £4,000,000 which he professed she owed ; and if this was an illusory pretence, for her liability for this reason was more than doubtful, and the income tax she has since paid has exceeded £23,000,000, still he distinctly admitted the principle—indeed, it has always been admitted by statesmen worthy of the name. The enormous new burdens imposed on Ireland, from 1853 to 1860, provoked widespread and profound discontent ; a Parliamentary inquiry was conceded ; a Committee of the House of Commons went into the subject in 1863–64. But the representation of Ireland, I have said, was feeble ; her complaints were stifled by the arts of the treasury ; the arguments of her members were overborne by specious but utterly false

\* Report of the Childers Commission, p. 158.

sophistry ; the inquiry came to nothing as regards her interests. The question remained in abeyance for years ; the Irish reforms of Mr. Gladstone, from 1869 to 1873, the troubles caused by the Land and the National Leagues, and the Home Rule agitation that followed, turned public attention away from the subject ; but it was not forgotten by well-informed Irishmen ; two real economists, Butt and Judge Longfield, insisted that Ireland had here a grievance ; and this was the opinion of several independent gentlemen, survivors of the illustrious school of Grattan. At last Mr. Goschen, perhaps moved by remonstrances from Ireland being urged again, appointed a Committee of the House of Commons to examine into, and to report upon, 'the equity of the financial relations in regard to the resources and the population of the Three Kingdoms ;' Mr. Gladstone, in 1893, recurred to the subject, which, rather unaccountably, had been let drop. He directed a Commission of great authority, composed for the most part of expert Englishmen, and presided over by the late Mr. Childers, a Chancellor of the Exchequer of Mr. Gladstone, to inquire thoroughly into the whole question of the financial relations of Great Britain and Ireland, and fully to set forth the conclusions they should form. The scope of the investigation was to include the history of the subject since the Union ; a consideration of the financial resources of Great Britain and Ireland regarded as distinct countries, and the principles to be kept in mind in forming a correct judgment ; and, finally, the charge of Ireland with respect to the State, and the contribution which Ireland should make to it.\*

\* I think it necessary to set out verbatim the terms of reference to the Commission ; I have for the sake of clearness changed their order : 'To inquire into the financial relations between Great Britain and Ireland, and their relative taxable capacity, and to report : I. Upon what principles of comparison, and by the application of what specific standards, the relative capacity of Great Britain and Ireland to bear taxation may be most equitably determined. II. What, so far as can

This inquiry, set on foot by a British statesman who had made himself notorious for 'assimilating Great Britain and Ireland in finance,' proceeded, nevertheless, upon an admission that, financially, the two countries were still distinct, and that the resources of each—their 'taxable capacity,' in other words, a phrase turned into absurd ridicule—afforded the true and the only test, as to the equity of Irish compared to British taxation. The Commissioners were engaged in their arduous task for months; they explained, with a fulness and clearness never before so complete, the history of the financial relations between Great Britain and Ireland. They brought distinctly out the fiscal position of the two countries before the Union; they set forth at length the financial arrangements made in 1800-01; they described the compromise effected in 1816; they dwelt on the fiscal policy of Peel to Ireland, and placed it in significant contrast with that of Mr. Gladstone; and they conclusively proved that, from the Union to the present time, Great Britain and Ireland had been treated financially as separate countries, despite the 'assimilation' of 1853-60, and that the right of Ireland, under the Treaty of Union, to the 'exemptions and abatements' secured to her, these being interpreted as the case requires, still give her immunities from taxation especially her own, which must be recognised if she is to obtain justice. Turning, then, to the resources of Great Britain and Ireland, regarded as apart, as being the true criterion of the taxation which Ireland ought to bear, the Commissioners reviewed a great mass of evidence, which, as far

be ascertained, is the true proportion, under the principles and specific standards so determined, between the taxable capacity of Great Britain and Ireland. III. The history of the financial relations between Great Britain and Ireland, at and after the Legislative Union, the charge for Irish purposes on the Imperial Exchequer during that period, and the amount of Irish taxation remaining available for contribution to Imperial expenditure; also the Imperial expenditure to which it is considered equitable that Ireland should contribute.'

as was perhaps possible, made the truth manifest, and arrived at conclusions which appear to be decisive. Comparing the death duties of Ireland and of Great Britain, the proportion is about 1 to 18 ; comparing the income tax, it is about 1 to 22 ; taking a great variety of other tests, receipts of railways, savings banks deposits, money and postal orders, and letters and telegrams, it varies from 1 to 24 and 16 ; and an estimate of the income of the two countries, an estimate certainly not fair to Ireland, gives a proportion of about 1 to 18. There are many reasons that these figures exaggerate the true resources of Ireland, but, assuming them to be approximately correct, the Commission has reported that Great Britain exceeds Ireland in resources by 20 to 1 ; in other words, that the 'taxable capacity of Ireland, as contrasted with that of Great Britain, cannot now be more than as 1 to 20.'\* Applying this inference to the taxation of the two countries, the conclusions formed by this tribunal can hardly admit of question. The revenue and taxation of Ireland compared with that of Great Britain from 1889 to 1894 has been £7,300,000 and £7,800,000 against from £85,000,000 to £89,000,000, that is, Ireland contributed from 8 to 9 per cent. of the sum total. But if the resources of Ireland are only one-twentieth of those of Great Britain, her taxation ought to be one-twentieth only, that is, it ought not to be from £7,300,000 to £7,800,000 ; it ought to be less than £5,000,000 ; not 8 or 9 per cent., but less than 5 per cent. It follows from this that Ireland has been overtaxed at the rate of between two and three millions a year, and that for a very considerable space of time.†

Enormous against Ireland as is this excess of taxation, it may amount to a very much larger sum, if the national

\* Report of the Childers Commission, p. 26.

† Since 1896, when the Childers Commission made its report, the overtaxation of Ireland has increased.

account be taken on another, perhaps a sounder, basis. There is the highest authority to show that taxation ought only to fall, in the instance of any given country, on the surplus remaining over and above the cost of the necessities of life; and as regards the populations of Great Britain and Ireland, this cost may be assumed to be £12 a head. But if we take the income of Great Britain to be 1400 millions sterling, the cost of the necessities of life at the above rate would for Great Britain be a sum of 324 millions; and the surplus available for taxation would be 1076 millions. On the other hand, if we turn to Ireland, the poor country, and suppose her income to be 76 millions sterling, the cost of the necessities of life for Ireland would be a sum of 46 millions; and the surplus available for taxation would be 30 millions only. On this hypothesis, the resources of Ireland which might be fairly taxed—her taxable capacity, in a word—would, compared with the resources of Great Britain, be, not as 1 to 20, but as 1 to 36 only; and her taxation ought to be less than £3,000,000, not, as before mentioned, less than £5,000,000. The Childers Commission, no doubt, with the exception of one of its members, did not give its sanction to this conclusion; but it was that formed by Sir Robert Giffen, a master of the subject on all its bearings, and it cannot, in common fairness, be left out of sight. Sir Robert Giffen's view is expressed in these words; it will be observed that his figures do not correspond with those just cited; but the only point to consider is the principle on which he takes his stand: 'If you deduct a minimum sum, so much per head from each of the community, as a sort of minimum sum, though you would not wish to take anything from a man who had no more than that, then the taxable income would be the whole income in each country above that sum. That was the sort of general idea. If you apply that to Ireland, and take a minimum sum of, say, £12 a head, you would get upon the basis of an Irish income of

£76,000,000 a taxable surplus, I think, now of about £22,000,000, and in Great Britain your taxable surplus would come to over £900,000,000.\*

Setting, however, these last considerations aside, the Childers Commission has conclusively shown that Ireland is very largely overtaxed, and has been so for a long series of years; and the figures that represent this great overcharge by no means represent the real difference of the burdens imposed on the two countries. It does not require the authority of Pitt to tell us that even equal taxation, equally applied, is felt much more acutely by a poor community than by one that is rich and prosperous; let us assume, what is by no means the fact, that this equality exists as between Great Britain and Ireland, still Ireland suffers much more than Great Britain. As Mill remarked a long time ago, 'It is not the same thing to take £2 from a man who has £40 a year, as to take £4 from a man who has £80, or £40 from a man who has £800; the sacrifice imposed on the taxpayer is greater upon the man from whom you take £2 out of £40 than it is on the man from whom you take £40 out of £800, although the proportion is the same.' A few examples, taken from the case of Great Britain and Ireland, will make the truth of this proposition perfectly clear. The wages of an agricultural labourer in Great Britain are, say, £40 a year; the wages of an agricultural labourer in Ireland are, say, £26; the first pays £3 taxes on his tea and tobacco; the second pays only £2; but the £2 are obviously much the heavier charge. Or suppose that a British artisan has £100 a year, and an Irish artisan no more than £80; is not the first more lightly taxed than the second, if he contributes £5 to the revenue against £4? And the same thing happens if we ascend the social scale; the £150 income tax paid by a British landlord of £3000 a year is not felt

\* Report of Childers Commission: 'Minutes of Evidence,' vol. i. p. 17.

by him to be such a charge as the £50 paid by an Irish landlord of £1000 a year ; the same principle would extend to the profits of trade were there small sums in Ireland and large sums in Great Britain. Make taxes, therefore, as equal as possible, and make their incidence completely equal, still, in the case of a poor compared to a wealthy country, the real burden on the taxpayer will be very different ; it was for this reason that the late Mr. Nassau Senior, an economist of no ordinary parts, pointedly remarked, as regards British and Irish taxation, 'England is the most lightly taxed and Ireland the most heavily taxed country in Europe, although both are nominally liable to equal taxation : I do not believe that Ireland is a poor country because she is overtaxed, but I think she is overtaxed because she is poor.'\*

Ireland, therefore, on a full review of the argument, has been overtaxed at least between two and three millions sterling a year for certainly more than forty years ; and this excess, as she is a very poor country, is, in her case, especially severe. The trend of taxation, if the phrase may be employed, as we follow its course, during a long period, clearly indicates that she has suffered from grave financial wrong. In 1819-20, we have seen, the taxation of Great Britain was at the rate of £3 13s. a head, that of Ireland being 15s. 5d. ; the proportion was £2 13s. 1d. and £1 6s. 7d. in 1859-60 ; in 1893 it was £2 4s. and £1 8s. ; in other words, the imposts of the wealthy country were progressively decreased, while the imposts of the poor country were progressively raised. This distinction, no doubt, has been partly due to the fact that the population of Great Britain has been largely augmented, and the population of Ireland has been enormously reduced in numbers ; the charge in Great Britain has been distributed among ever growing millions, the charge in Ireland has been concentrated upon ever lessening thousands ; but

\* Report of the Childers Commission, p. 16.



this will not nearly account for the difference; 'the wealthier country,' it has been caustically said, 'was taxed less and less as it became more wealthy; the poorer country was burdened more and more as its poverty increased.'\* And the overcharge on Ireland is all the more grievous because it owed its origin to the policy of free trade; and this policy has been a questionable boon to Ireland, while to Great Britain it has been an immense benefit. No doubt the cheapening of the price of the necessaries and of some of the conveniences of life, which has been one of the results of free trade, has been a great advantage to the Irish labourer, artisan, and mere cottar peasant; but free trade has been injurious to the real Irish farmer and the Irish landlord, and to most of the classes connected with the land; and the land is the main source of the scanty wealth of Ireland. Free trade, on the other hand, has been a principal cause of the extraordinary development of the material welfare of England which has been witnessed during the last fifty years; it has doubled and trebled her gigantic manufactures and trade, if her agriculture is by no means flourishing. This striking contrast gives pain to right-minded Irishmen; they feel, as Grattan predicted would be the case, that their country's interests have been sacrificed to British commerce; and the following observations are essentially true and just: 'The change' (from protection to free trade) 'has not been so advantageous to Ireland, a country in which there is but little trade or manufacturing industry, as it has been to England; although, as consumers, the Irish population may have gained in some cases by the abolition of the duties on foodstuffs, yet, on the other hand, as producers, chiefly dependent on agriculture, they have lost in a far greater degree by the cheap prices in the British markets, produced, in part at least, by the free and untaxed supply of foreign corn, live stock, dead meat, butter, cheese, eggs,

\* Report of the Childers Commission, p. 89.

and other articles of food. . . . It may even perhaps be said that just as Ireland suffered in the last century from the protective and exclusive commercial policy of Great Britain, so she has been at a disadvantage in this century from the adoption of an almost unqualified free trade policy for the United Kingdom.' \*

Many attempts, I have said, have been made to answer the conclusive Report of the Childers Commission, to carp at its proceedings, to challenge its statements, to deny that Ireland has been largely overtaxed ; but, with scarcely an exception, they have been grotesque failures. I need hardly notice an audacious sally, which has been turned to account in the House of Commons, and has split the cars of the groundlings in different parts of England. England, the argument runs, has been too kind to Ireland ; Ireland pays no land tax and sundry other duties ; in other respects she is equally taxed with Great Britain ; she has not even a semblance of a real complaint ; and—exactly in the manner of Swift's satire—'let her hold her tongue, or it may be the worse for her.' Ireland, no doubt, 'assimilated as she has been in finance,' is free from some charges imposed on England ; she has still 'exemptions and abatements' which, to some extent, preserve her rights under the Treaty of Union, and show that she is still financially a distinct country, as has been recognised by every leading British statesman, from the day of Pitt to the day of Mr. Gladstone. But the English land tax, properly speaking, is not a tax at all ; it is a rent-charge for centuries payable by the land ; at all events, the Irish Crown and quit rents may be set off against it ; and, as to the other taxes referred to, the cost of collection in Ireland would exceed the returns ; it would be a case of *in Thesaurο nihil*, as in Plantagenet times. Another argument, of which the late Mr. Lowe was the author, is more plausible, and has done better service ; but

\* Report of the Childers Commission, pp. 159, 160.

it is not the less shallow and false sophistry, when brought to the test. Taxation, it is said, falls on populations only ; it is sheer nonsense to say that it falls on countries ; it is not levied from Great Britain and Ireland ; it is levied from the inhabitants within their borders. But the Englishman, the Scotsman, and the Irishman are equally taxed ; the Irishman, indeed, has a small advantage ; equality of taxation is the rule in this matter ; and obviously equality is the same thing as equity. An English landlord in Kent, a Scotch landlord in Perthshire, an Irish landlord in Kildare, pay the same income tax on the same rentals ; so does a merchant in London, a merchant in Edinburgh, a merchant in Belfast, on the same profits ; and the same principle extends to all other classes. A farmer in Surrey, a crofter in Argyleshire, a shopkeeper in Galway, pay exactly the same tax on a gallon of rum, a gallon of whiskey, a hogshead of beer ; the charge is the same for each commodity in the three households. This Irish grievance, therefore, is a mere delusion ; it is a sickly phantom that vanishes in the light of the day.

That taxation falls on populations and not on areas of land is a truism really never disputed ; the use of the word 'countries,' in this sense, is a mere popular phrase. This argument keeps out of sight the fact that equal taxes, however equally imposed, are much heavier in the case of a poor than of a rich community ; but, waiving this objection, it is a sheer fallacy. If two populations had exactly the same tastes, used the same commodities in the same proportions, and were in the possession of the same resources ; equality of taxation, if equally applied, would probably be essentially just. But if two populations have different tastes, if they differ in the use of even the same commodities, and if their resources are very different, and especially if equal taxation be not equally applied, this apparent equality, far from being equity, may become plain, nay, very grave iniquity. This may be made

intelligible, at a glance, by the consideration of a few instances easily conceived. Impose an equal tax on coals in England and Ireland : would the charge fall equally on Englishmen in a land of coal and on Irishmen in a land of peat mosses ? Tax Londoners and Parisians at the same rate on coffee : would the Londoner, who drinks comparatively little coffee, be as heavily mulcted as the Parisian, who drinks a great deal ? Or suppose that light taxes were laid on articles that suit Englishmen, and enter into the consumption of the millions of England, and that heavy taxes were laid on articles that suit Irishmen, and are consumed by the Irish millions : would not this system favour Englishmen, and injure Irishmen, though the taxes on all these articles were the same in both countries ? Examples by the hundred might be brought forward ; these suffice to prove that equality of taxation, as between communities, differing from each other in the conditions and circumstances of life, and notably if the incidence of this taxation is not the same, may be made to effect the grossest injustice. And this financial wrong has been done, to a very great extent, if we compare the taxation of Great Britain and Ireland. The consumption of tea and tobacco by the head is nearly the same in both countries ; the taxes on these commodities are the same ; admit that this is equitable in a certain sense, though the impost is relatively more burdensome on the poor community. The consumption of spirits by the head, also, is much the same for the Three Kingdoms ; the taxation is precisely the same ; this, for the sake of argument, I will call justice. But the consumption of beer by the head in Great Britain is about double what it is in Ireland ; probably ten Englishmen drink beer compared to one Irishman ; whiskey is the ordinary spirituous drink of Irishmen. Now, the taxes on beer and on whiskey are the same in Great Britain and Ireland ; but the tax on beer, measured by the alcoholic standard,

is about six times lower than the tax on whiskey ; \* beer, therefore, compared with whiskey is greatly undertaxed ; whiskey compared with beer is greatly overtaxed ; the ordinary drink of Englishmen is treated differently from the ordinary drink of Irishmen, one being encouraged, the other discouraged ; though the taxes on each commodity may be everywhere the same, the equality of taxation manifestly results in wrong. The difference amounts to a very large sum ; it is one of the causes that Ireland is overtaxed.†

Equality of taxation may, therefore, be not equity ; it may, as I have said, be sheer iniquity ; and this is emphatically the case with respect to Ireland. This system is productive of gross injustice as regards what may be deemed the popular Irish drink ; but arguments to support it have not been wanting ; they have been complacently gulped down at several public meetings, it is unnecessary to add within the borders of England. The 'mere Irish,' it is said, have shocking bad tastes ; let

\* 'Minutes of Evidence,' Childers Commission, vol. ii. p. 218.

† I quote from the Report of the Childers Commission, p. 68, these valuable remarks on the subject : 'Neither can there then be any question that a system of equal rates of taxes on the same subjects is compatible with the utmost inequality of burdens between two countries contributing to one exchequer. All that need be done in order to exact an undue proportion—unlimited in extent—of the means of either of the countries is to tax the commodities most consumed in that country, and in fixing the rate of the tax on each commodity, to fix the higher rates on the particular commodities most generally in use in that country, and the lower rates on those most consumed in the other. The same kind of effect, of course, may be produced, and the same discrimination exercised, by totally exempting some commodities and taxing others, however lightly. In fact, a system of equal rates of taxes may thus be rendered more easily unjust and burdensome to the country discriminated against than one of differential taxes, because in the latter case, the unequal treatment, and the mode of it being manifest, are more liable to criticism and limitation ; whilst in the former, the true effect of the system is disguised by the circumstances that each particular head of tax is at the same rate in both countries.'

them take beer instead of whiskey and they can have no grievance ; besides, whiskey is a nasty and unwholesome thing ; it is in mercy to them that it is excessively taxed. Is it possible that people who utter this stuff do not see that sumptuary legislation of extreme harshness, nay, persecution of the worst kind, may be justified on the same class of premises ? Suppose that Napoleon, in the plenitude of his power, had declared that the Parisians did not know what was good for them, and had heavily taxed their coffee to make them drink tea, even Austerlitz would not have saved the Empire. Marie Antoinette actually made an attempt to banish from her Court the velvets and silks of Lyons, and to make it adopt the cambrics and muslins of Belgium ; she would have been too glad to see the first taxed and the second duty free, for she thought the French taste for heavy and gorgeous apparel bad ; she only aroused the indignation of Versailles. Or say that the priests of the Jove of the Capitol had argued in this way : ' Really these detestable Christians are fools for worshipping a crucified Jew ; they have only to bow down to Cæsar to escape the lions ; otherwise they have themselves alone to blame.' Nay, coming nearer home, might not a holy prelate of the Irish Established Church in the eighteenth century have reconciled the penal code to his conscience, by whispering to himself that the deluded Papists had but to give up their vain superstitions, and to conform to the pure well of faith that had its source in the Castle, and that then they would be no longer outlaws ; but let them take the consequences if they were blind to their best interests on earth and in heaven. In fact, any act of despotism on the part of the State might be vindicated on these very laudable principles ; but on this matter of the taxation of Irish whiskey I shall confine myself to a single remark. Reverse the cases of England and Ireland with respect to the imposts on beer and on whiskey ; tax beer very heavily and whiskey very lightly ;

and what would Englishmen say of an argument that has been thought good enough for Irishmen ; how long would a Government exist that would try to carry out such a policy ? In truth, this reasoning, if it can be so called, is the worst kind of sophistry : the frank brutality of the Roman proconsul, who told the population of a subject province that they must endure their burdens as they would endure the rain and the tempest, is less censurable, to my mind at least, than this compound of absurd and offensive insolence.

Another argument, really of no greater value, has had many supporters in the House of Commons. True it is, it is admitted, that, compared with Great Britain, Ireland has been hardly treated in finance ; but this is because she is a poor country, and a poor country must suffer from taxation, fair as it may be, more than a wealthy country. But the same inequality is seen in England : Dorset and Wiltshire are more heavily burdened than Yorkshire and Lancashire, yet Dorset and Wiltshire make no complaints as Ireland does. This argument, however, ignores history, and sets the Treaty of Union at nought ; Dorset and Wiltshire are mere fractions of England ; Ireland has always been financially a distinct country, entitled to separate financial rights ; and this has been recognised by the ablest British statesmen, notably, of late years, by Mr. Goschen, and by Mr. Gladstone. This reasoning, in a word, assumes that Ireland is merely an aggregate of British counties ; but this has never been her true financial position ; it is easy to sneer at the phrase 'separate entity' by which she has been called, that is, a land, financially, apart from Great Britain, but sneers cannot get the better of facts. These statements of distinguished English experts are unquestionable in view of the record of history. Lord Farrer has remarked : 'It is abundantly clear that of the two conflicting theories—viz. the one which regards Great Britain and Ireland as one country for the purpose of

taxation and expenditure, and the other which regards Great Britain and Ireland as separate partners—the second is the one upon which our instructions are founded ; the one which has the greatest support in history, and the one upon which all parties in Parliament have recently acted.’ \* And Mr. Childers completely concurs : ‘ If apart from the reference, it is asked why a distinction should be taken between Great Britain and Ireland any more than between Kent and Yorkshire, the answer is that Ireland entered into a partnership with Great Britain under a formal Treaty of Union, which did, to a certain extent, by the recognition of the claim of Ireland to abatements and exemptions, if circumstances should require, maintain the position of Ireland as entitled to separate treatment as a whole, so far as relates to taxation. It must also be recollected that, as a matter of fact, Ireland has, at all times since the Union, in various degrees received such separate treatment. Ireland, therefore, cannot be regarded as merely a group of counties of the United Kingdom.†

Two other arguments may be ascribed to the ingenuity, if this is the true word, of the Treasury ; but the first rests on a gross misrepresentation of fact, the other upon a false theory ; both, with a slight reservation, may be dismissed as hopeless. Ireland, it is said, may possibly be overtaxed—admit this for the sake of argument—but she has had more than her fair share of loans from the State ; a considerable part of these has been freely remitted ; this has not been the case in England and Scotland ; a large counterclaim, therefore, may be made against her. ‘ Out of a total sum of about one hundred and nineteen millions and a half advanced in the United Kingdom, a little over fifty-two millions, or 43·7 per cent., has been advanced to Ireland, and of this, so large a proportion as one-fifth, or over ten millions, had to be remitted, or treated as a free grant, whilst only one fifty-eighth part of the advances made to

\* Report of the Childers Commission, p. 39.

† Ibid., p. 166.



Great Britain were so treated.'\* So far as these loans have been advances for the real good of Ireland, for example, for the promotion of reproductive works—these may fairly be taken into account; but millions have been misapplied and wasted or spent in the unproductive relief of distress;† these sums probably are greater than the excess made out by the Treasury. As regards the remission of the £10,000,000, the assertion relied on is simply deceptive. Not less than £4,000,000 of this sum represent the fund the extinction of which was the consideration of putting the income tax on Ireland by Mr. Gladstone; and, as the charge of that tax has been since more than £23,000,000, it savours of impudence to call this a remission; it was writing off a doubtful debt to justify a new and portentous burden. The residue of the £10,000,000 is composed of advances that have been misspent or spent on purposes really not Irish; these were not remitted in the proper acceptation of the word. 'The remaining portion of the ten millions of alleged remissions of loans consists mainly of remissions of the repayment of expenditure by the Board of Works, where it was shown that such expenditure had been wasteful, and of advances to the clergy and laity of the Established Church of Ireland, which advances Parliament, by legislation, deprived them of the ability of repaying. Altogether it would appear, from Sir Edward Hamilton's evidence, that in reality only

\* Report of the Childers Commission, p. 11.

† Ibid.: Evidence of Mr. Munough O'Brien, pp. 12, 13: 'The system of Imperial loans for temporary emergencies and charity tends to increase the poverty of Ireland, whose future income is mortgaged to pay interest on expenditure from which there is no return. There is no surer road to ruin for an individual than borrowing money to live upon, and most of these Imperial loans are practically made from time to time to enable the Irish people to live or relieve acute distress and disorder. Loans are almost annually made to keep the people quiet or to keep them alive. Yet this expenditure does not prevent the recurrence of famine, distress, and discontent; it rather tends to cause their recurrence.'

about one million out of the ten corresponded in their character to the advances made to Great Britain, and that consequently the proportion of real remissions of loans to Ireland did not differ very materially from that of the proportion of the remission in Great Britain.'

The second argument appears to be more plausible ; but it is mischievous, in a high degree, and dangerous ; except to a slight extent, it is completely fallacious. Ireland, it is allowed, contributes from £7,300,000 to £7,800,000 to the exchequer ; but of this sum £5,000,000 and upwards are expended on her ; she really hardly pays £2,000,000 to the State ; the £5,000,000 therefore, or nearly all this sum, create a just counterclaim against her, even admitting she is excessively taxed. This expenditure on Ireland, it is contended, is for Irish 'local' purposes ; it is not expenditure for 'Imperial' purposes ; the account, as between Great Britain and Ireland, is to be taken as if all this expenditure, or nearly so, were purely local. But is not the expenditure for keeping up the Lord-Lieutenant and his Court, is not the expenditure on the government and administration of Ireland, essentially, and in the main, Imperial, and not local in a legitimate sense, so long as the United Kingdom exists ? Is it not as Imperial, at least for the most part, as the expenditure on the British army and navy and on the government and administration of England and Scotland is Imperial, and not, properly speaking, local ? This argument could be retorted with decisive effect, if urged in the interest of Ireland against Great Britain. If this kind of expenditure in Ireland is held to be local, not Imperial, the same rule must apply to England and Scotland ; this expenditure in their case must be local and not Imperial. Why, then, should Ireland contribute to such charges as public works in Edinburgh and London, as the maintenance of the great English dockyards and harbours, as the cost of the army and navy outside Ireland, and of the government and administration

of England and Scotland? Clearly on the Treasury hypothesis she should not contribute; and if she does, she has an immense counterclaim, so far as her contributions are applied to these local objects. But, in truth, this whole argument, when examined, is a mere sophism. The revenues of the Three Kingdoms are paid into a common exchequer; they are distributed according to the uses of the State; this expenditure, as a general rule, must be held to be Imperial, not local, and cannot give a part of the Three Kingdoms a right to make a claim against another. The State spends millions on London which it does not spend on Surrey; it spends millions in Hants which it does not spend in Berkshire: does this circumstance give Surrey or Berkshire a title to say we can make a demand on London and Hants? Precisely in the same way, the expenditure of the State on Ireland, as contradistinguished from that on Great Britain, cannot, at least as a general principle, give Great Britain a right to make a counterclaim on Ireland.

It is unnecessary to point out how this theory has a tendency to create local and even national ill-will; to set parts of one country against other parts, and two countries against each other; it distinctly alienates Ireland from Great Britain; as I have said, it is full of mischief and peril. In truth, however, it is a mere device to excuse the overcharge of Irish taxation; it has never entered the minds of statesmen. Nothing can be more certain than that every great British financier, from the day of Pitt to the day of Peel, and to the day of Mr. Gladstone, has regarded the expenditure of the Three Kingdoms, as this is paid into a common exchequer, as a general fund to be allocated as the State requires; and has not regarded it as a fund, under local heads, to be laid out in separate districts, so as to give any one district a counterclaim against another. I quote from a report of one of the members of the Childers Commissions: 'A division of the

expenditure of the United Kingdom into "charge for Irish purposes" and "Imperial expenditure," cannot be made under the system of finance embodied in the constitution established by the Legislative Union. All expenditure under that system is "expenditure of the United Kingdom," or, to express it more briefly, "Imperial expenditure;" and all Imperial expenditure is defrayed from the common fund of the Imperial Exchequer. If a part of the Imperial expenditure be described as a charge "for Irish purposes," this classification does not affect the fact that it is Imperial expenditure, and charged as such upon the whole Imperial revenue. To regard this expenditure as non-Imperial, to deduct it from the particular revenue contributed by Ireland to Imperial expenditure, to treat the fraction of Irish revenue left as if it were the whole of the Irish contribution to Imperial expenditure, and to regard Imperial expenditure itself as not including "the charge for Irish purposes," would be to do what the Constitution does not sanction: it would be to deal with the revenue and expenditure of the United Kingdom as if the revenues of Great Britain and Ireland were raised and administered by separate authorities, each of which, having first, out of its own revenue, defrayed its separate charges, then applied the balance to payment of common expenses, which, in that case, would be properly classified as Imperial.\* And the evidence of Sir Robert Giffen is to the same effect: 'The opinion which I have formed is that, on the whole, it is not possible to make the distinction between the different objects of Imperial expenditure which is made in some of these discussions; that, in fact, all the expenditure by an Imperial Government is to be considered expenditure for Imperial purposes, and although part of it may be spent locally, you cannot in any way call it expenditure for the special benefit of that locality.

\* Report of the Childers Commission: Report of Mr. Sexton and others, pp. 102, 103.

It is expenditure for the general objects of the Imperial Government.'\*

The theory of the Treasury is thus essentially false; but accidentally, it contains, I think, a residuum of truth. When, as between two countries, one pays a considerable sum, exclusively or mainly from local rates, and the same charge in the other country is for the most part defrayed from Imperial taxation by the State, it appears to me that a portion of the sum so paid by the State may give one country a counterclaim against the other to some extent. This is the case as between Great Britain and Ireland; the cost of national education and of the police force is largely discharged in Great Britain by local rates; in Ireland it amounts to about £2,700,000, and is mainly defrayed from Imperial taxes; this may create a counterclaim against Ireland within reasonable limits at least. No doubt the charge of bringing up the young of the poorer classes and of maintaining public order by a suitable force, ought largely to be an Imperial charge; but when in one community it is chiefly borne by local funds, and in another it is chiefly borne by the common Exchequer of both, this seems to give the first community a partial claim against the second. This counterclaim, such as it is, has been reckoned, in addition to a sum for free grants, at about £500,000 a year by the Childers Commission; but it did not thoroughly go into the subject; this estimate is believed to be too low by well-informed persons; the counterclaim has been calculated to be about £1,000,000 sterling. Lord Salisbury's Government, we have seen, promised to appoint a second Commission to examine this question at length, besides some other financial questions suggested by the Report of the Childers Commission; for some unknown reason it has not redeemed its pledge; it is very desirable that it should redeem it. Apart from the mischief of a delay approaching

\* Report of the Childers Commission: 'Evidence,' vol. ii. p. 18.

a breach of public faith, the only inference that can be drawn, if this promise is broken, is that the Government accepts the view in this matter of the Childers Commission.

The Childers Commission has conclusively proved that Ireland is much too highly taxed ; whatever counterclaim may be made against this excess, the overcharge can be little less than two millions a year. The arguments urged against this conclusion are mere leather and prunella that may be brushed aside ; the Report of the Commission has had the sanction of nearly all economists of a high order. By all means let another Commission strike a balance after making every fair allowance ; but if it shall be struck, as it must be in Ireland's favour, the only real question for impartial men will be how it shall be best discharged. Ireland has practically acquiesced for years in fiscal injustice ; in any view of the case she has no right to call for a change in our whole system of finance for her special benefit. Still less has she a right to demand that her customs and excise duties should be placed at a lower level than those of Great Britain ; this would raise a mischievous barrier between the two countries ; this policy would be, perhaps, impossible ; if possible, it would probably injure Ireland greatly in the long run. The only remaining alternative is to leave our existing fiscal system intact, but to make an annual grant from the exchequer for Irish uses, as compensation for excessive taxation ; this has the support of the Childers Commission. 'The third method, and that which most strongly recommends itself to our judgment, is to give compensation to Ireland by making an annual allocation of revenue in their favour, to be employed in promoting the material prosperity and social welfare of the country.' \* It is difficult to suppose, should a large yearly sum be found to be due to Ireland, as affairs now stand, that Parliament will refuse to pay honourably a just debt ; it would be a shameful act to repudiate an

\* Report of the Childers Commission, pp. 194, 195.

obligation of the kind. Years ago Pitt declared in his characteristic style that 'Ireland might safely rely on Great Britain for the discharge of any fair claim on her ; the liberality, the justice, the honour of the people of Great Britain have never been found deficient.' The time has come to test the value of this pledge ; it has been announced by the highest authority, in which English opinion largely prevails, that Ireland has been immensely overtaxed for years : will the 'people of Great Britain' give effect to this judgment, and make good a claim which hardly admits of a doubt ? The demand of Ireland, no doubt, is not sustained by violent agitation and the shouts of multitudes ; but it is backed by all that is best in Irish opinion ; it rests upon the simplest financial justice. It is dangerous to treat a demand such as this with contempt, and still more so with weak sophistry ; not that Ireland can make an effective resistance to fiscal wrong, however clearly proved ; and I for one deprecate rhodomontade about 'the Boston tea-ships.' But a claim may have great moral force, though it be not supported by physical power ; the disregard of this claim would provoke well-informed Irishmen, and weaken the Union perhaps greatly ; and, after all, is it a seemly sight, is it becoming in the eyes of the world, that the richest country in Europe should practically impose an iniquitous burden upon the poorest ?

## CHAPTER VIII

### THE QUESTIONS OF IRISH LOCAL GOVERNMENT AND EDUCATION—OTHER QUESTIONS—CONCLUSION

Irish county government—The grand jury system in the eighteenth century—Its merits and defects—The grand jury system in the nineteenth century, and especially since 1836—The Irish poor law system—Elected and *ex-officio* guardians—The local government of cities and towns in Ireland—Municipal institutions founded in Ireland by the Norman kings—Why they did not prosper—Boroughs and municipalities founded by James I. and the Stuarts—Their condition in the eighteenth and nineteenth centuries—The Municipal Reform Act of 1840—The Towns Commissioners Acts—Attempts to reform the municipal system of local government in Ireland—The Local Government of Ireland Act, 1898—Complete change in Irish local government—The County Councils—The County Borough Councils—The District, Rural, and the Urban District Councils—Their functions, rights, and duties—All these bodies placed on a democratic basis—Attitude of the County Councils in the southern provinces—Education in Ireland—History of primary education—The national system of education—The principles on which it is founded—How it has worked, and what its results have been—Secondary education in Ireland—Its history—Its present condition very imperfect—The Intermediate Education Act—University education in Ireland—Its history—Trinity College—The Queen's Colleges and the Queen's University founded by Peel—Their comparative failure—Mr. Gladstone's Bill to reform University education in Ireland—Its glaring errors and failure—Trinity College thrown open in 1873—The Royal University founded in 1879—Present state of University education in Ireland—The true principles of reform—Other Irish questions—Conclusion.

THAT local government in Ireland should still be a  
'Present Irish Question,' may appear strange to persons



only versed in the mere routine of politics. The subject has been before Parliament for nearly thirty years ; it has engaged the attention of more than one of its Committees ; Butt endeavoured, to no purpose, to legislate on it. In 1892 Lord Salisbury's Government brought in a measure which aimed at transforming the whole system of administering local affairs in Ireland ; but it had unquestionable defects and was vehemently opposed ; unfortunately, as I believe, it was permitted to drop. Six years afterwards, that is, in 1898, the greater part of a parliamentary session was employed in dealing with the question again ; a Bill became law which placed Irish local government, in all its departments, upon a new basis, and completely changed the characteristics it had had for centuries. The measure was to be a *ne plus ultra* ; it was extolled by applauding partisans as a magnificent scheme of popular reform ; these have since, over and over again, declared that its success has been more than manifest. It is too soon to pronounce, with anything like confidence, on what its ultimate results may be, or even to say, with certainty, how it will practically work ; but enough has already been made apparent to cause thoughtful and fair-minded Irishmen to regard the changes it has effected with grave misgivings ; to question the principles on which it rests, or at least the wisdom of applying them to Ireland as she now is ; and to ask whether it must not be amended if the social structure of Ireland is not to be still more violently disturbed, than it has been by the experiments that have been made on it. Besides, the local government and administration of every community, especially if formed on a popular type, affect its existence in many ways ; strongly indicate what its opinions are, what its qualities, what its evident tendencies ; in a word, largely represent its essential nature. It was not for nothing that in his survey of the Revolution in France, Burke did not confine himself to the sovereign assembly at Versailles, but turned his penetrating glance

on the petty assemblies which had been set up in the new-made departments, for the conduct of their local affairs ; these, he insisted, formed the truest expression of the mind of the people and of the leaders at its head. For these reasons, therefore, if we would understand Ireland, her local government is a 'Present Irish Question ;' it is a question, moreover, which, whatever may be said, in all probability has not been finally settled.

In order to understand the subject, I must glance at the system of Irish local government, as this existed until, as it were, yesterday ; I turn, in the first instance, to Irish county government. The beginnings of this scheme have been traced back to the time of Strafford ; but it was not finally established until the reign of William III., when the subjugation of Ireland had been made complete. The Irish grand juries always had criminal jurisdiction in their countries like their English fellows ; but unlike these they were now entrusted with almost absolute control over Irish county government. This was partly because they were representatives of the conquering race, by this time the owners of nine-tenths of the lands of the country ; and partly because there was no local organisation in Ireland, like the English parish, which could give local influence to the conquered race. The grand juries were always composed of the leading landed gentry of their respective counties ; they were nominated by the sheriffs, that is, by officials of the Central Government ; they were wholly devoid of a popular element ; and as no Catholic could have a share in their councils, until nearly the end of the eighteenth century, they embodied, in the fullest sense, the Protestant ascendancy of the day, supreme in every sphere of authority in the State. The grand juries had almost the exclusive power of administering the local affairs of their counties, of managing their roads, public buildings, and police ; and they levied the charges for these by a local rate, known as the county cess to this

hour, and imposed almost wholly on the occupiers of the soil, that is, in five cases out of six on the Catholic peasantry, a striking instance of taxation without representation to check it. These assemblies of local magnates met twice a year at the assizes which were held in their counties. Miss Edgeworth has given us graphic accounts of them : how a seat on a grand jury was deemed a prize to be sometimes fought for ; how the grand juries entertained the judges in state, and vied with these sages in their mighty potations ; and how, while wretches were hanged and jurymen dined, the assize towns were scenes of not fastidious revelry. There was much jobbing, corruption, and waste in the administration of the counties in those days ; much of the 'scratch me, and I will scratch you ;' much 'give and take' at the cost of the ratepayers. But there was another and better side to the picture : the Irish gentry of the time had the faculty of command ; they ruled their districts efficiently with their police ; the public works for which they were responsible were usually good. Arthur Young has especially noticed that the roads they constructed were almost always well laid out and kept up.

Catholics were not admitted on grand juries until the great Relief Act of 1793, the first general relaxation of the execrable penal code. But the Catholic members of these bodies have always been few ; the large majority of the Irish landlords remains still Protestant. The bureaucracy of the Castle, after the Union, began to encroach on the domain of the grand juries ; at the same time the growing needs of the country made the expenditure on local affairs much larger. The grand juries lost much of their authority by degrees ; they were more and more controlled by the Central Government, which supplanted them in a variety of ways ; and they were ere long compelled to vote sums for public works of different kinds for the behoof of their counties. This change effectually checked corruption and jobbing ; but as the requirements

of the counties increased, and the 'imperative presentments,' as they were called, were augmented, the charge of the local rate or county cess became more onerous—it has advanced enormously in the last sixty years; and this was still mainly imposed on the Catholic peasantry. The civil or fiscal administration, which the grand juries possessed until 1898, was finally arranged by an Act of Parliament passed in 1836,\* supplemented, from time to time, by subsequent statutes. These bodies were composed of the same elements, and nominated by the sheriffs as before; and they had a general supervision over all the public works, roads, bridges, and buildings for public purposes, comprised within their different counties, including within these areas nearly all villages, and the large majority of the lesser towns. But they were made strictly dependent on the Central Government; this had the appointment of their chief officers; their accounts were subjected to a regular audit; and their 'imperative presentments' were largely extended. They acquired, too, an additional jurisdiction in some respects, especially as regards inquiries into criminal injuries and compensating persons who had been sufferers, and as regards voting an extra police force in disturbed districts; but their old local police had disappeared, and had been replaced by the great central constabulary force. A change, too, was effected in the modes through which local rates were voted in the counties for public purposes. These sums were 'presented' in the first instance at 'baronial' and 'county at large' sessions, held by county justices and ratepayers of substance; but these bodies were subordinate to the grand juries, and to a considerable extent drawn from the same classes; no popular element was infused in county government, and the grand juries were, in the last resort, supreme, within the limits which had

\* 6 & 7 Will. IV. c. 116. The works of Messrs. Vanston and Foote on the grand juries of Ireland may be referred to.

been assigned to them. The local expenditure voted and assessed in this way was subject to examination by a judge of assize, who 'fated' it, as a general rule; and ratepayers had a right to challenge it, by a procedure called 'a traverse,' which, however, was seldom turned to account.

The Irish grand juries were thus oligarchic bodies, survivals of the Protestant ascendancy of a bygone age, and with a tendency, in their later history, to become subordinate boards of the Castle. I pass on to the Irish poor law system, another considerable department of Irish local government. As we have seen, unlike what had been the case in England, no poor law existed in Ireland until 1838; the want of such a measure was one of the causes of the pressure of a huge mass of indigence on the soil before the catastrophe of 1845-47. The Irish poor law, with some marked distinctions, was analogous to the new English poor law, as it has long been called; it has now been in operation for about sixty years. The country was divided into a series of unions, which have varied from 130 to 163 in number; at present there are 159 of these; these were the principal units for carrying the poor law system into effect. The unions were again subdivided into lesser districts, electoral divisions for the county, wards for the larger towns; the persons chosen to administer the poor law were taken from these areas; and the unions and all that pertained to them were placed under the control of the Central Government, represented by the Local Government Board of Ireland. The persons returned from the electoral divisions and the wards were selected by the votes of the ratepayers, and were known as the elected guardians; a popular element was thus introduced into the administration of the law, which had never been introduced into Irish county government. The vote of the ratepayers, however, was cumulative, not single; the largest ratepayers had the most

votes, a safeguard, it has been assumed, for property ; and the elected guardians, in theory at least, were balanced by an equal number of *ex-officio* guardians, composed of magistrates within the unions. The chief duties of the elected and the *ex-officio* guardians, collectively known as Boards of Guardians, were to provide for the wants of the poor, and to assess and levy poor rates for that purpose ; but many other duties were gradually imposed on them, the principal of these being the care of the sanitary state of the lesser towns within their districts. There was a marked difference between the incidence of the poor rate and of the county rate, or cess, of the grand juries. The county cess, we have seen, was mainly a charge on the Catholic occupiers of the soil, the poor rate was, to a very considerable extent, a charge on the owners, for the most part Protestants ; for the landlord was bound to pay the whole poor rate in the case of the pettiest holdings, and to allow his tenants half the poor rate in the case of other holdings ; by these means the burden of at least half the poor rate, it is believed, was borne by the Irish landed gentry. It should be added that the elected guardians have practically had the administration of the poor law in their hands ; the *ex-officio* guardians, especially of late years, took little part in it.\*

I turn from the administration of local rural affairs in Ireland to that of its chief cities and its towns. The Irish towns, conquered and settled by the Danes, had, perhaps, a kind of municipal government ; the Plantagenet kings conferred municipal rights as freely in Ireland as they did in England. Thus Dublin received a charter from John, modelled on that of his 'liegemen of Bristol ;' Limerick, Waterford, Kilkenny, and several other towns were incorporated and given powers of self-government at different periods of the Middle Ages. But the municipal life and

\* The reader may be referred to Mr. Moore's work on the Irish poor law.

the municipal spirit which grew up and gained strength in the thriving towns of England, and secured for them a large measure of local liberty, had hardly any existence in a land like Ireland, distracted by feudal and tribal anarchy ; the corporate cities and towns of Ireland fell into the hands of great Anglo-Norman nobles and Celtic chiefs, and seem to have all but lost their local franchises. During the long agony of the sixteenth century, when Ireland was devastated by a horrible strife of race and faith, these privileges were still further effaced ; at the death of Elizabeth the Irish municipal centres, with the exception of the capital, were mere names and shadows. A great change took place when the subjugated land passed under the domination of the first Stuarts. English law was now extended over the whole of Ireland ; a colonial caste of settlers was becoming lords of the soil ; the Government was conducted by the men at the Castle, ruling through a Parliament largely composed of the new settlers. James I. created forty-six Irish boroughs with a stroke of the pen, and gave them a representation in the Parliament and municipal rights ; but these, for the most part, were mere villages ; they obtained their large privileges solely in order to support ' the English interest,' as it was called, in the Irish House of Commons. This system was continued by the later Stuarts ; besides Dublin and the larger towns of Ireland, there were about a hundred of these petty municipalities and parliamentary boroughs in the eighteenth century. These places, however, could have no municipal freedom, and were wholly devoid of municipal feeling ; they became nearly all the mere appanages of the neighbouring leading families ; and, with hardly an exception, they were extreme types of the Protestant ascendancy which prevailed everywhere. Something of the same kind was witnessed in England, under the aristocratic rule of that age, but there was the difference between a sorry caricature and a picture ; the great cities

and the better towns of England still retained an ample measure of municipal liberty, and, especially, did not lose the municipal spirit ; the exact contrary was the case in Ireland.

A large majority of the little Irish boroughs were deprived of their parliamentary representation at the Union, but they retained their nominal municipal rights. They still remained under the control of the chief landed gentry ; and they became, as indeed they had always been, centres of maladministration, corruption, and speculation of all kinds. When, after the passing of the great Reform Act of 1832, statesmen directed their minds to the questions of corporate and municipal reform in England, they naturally turned their minds to Ireland also, where this reform was notoriously still more imperative. After the publication of a masterly report in 1834-35, which thoroughly illustrated the whole subject, the abuses in the Irish corporations were shown to be such—they were enormous even in the cities and larger towns—that Peel, the leader of the Opposition, actually gave them up ; he proposed to deprive the corporate towns of all municipal rights and franchises, and to place them under the authority of Commissioners appointed by the Crown. This plan, however, was rejected by the Melbourne Government, and was not sanctioned by the House of Commons ; after a long and angry controversy, which continued for years, a measure became law as late as 1840 ; and by this, with the exception of ten, all the corporate towns of Ireland lost their municipal rights, and were thus left without any power of self-government. With respect even to the ten still enfranchised towns, their old privileges were greatly curtailed and were transferred to the Central Government ; and their municipal liberties were restricted and narrowed. They retained, indeed, many rights of self-government ; but the municipal franchise was placed at a high level ; the great body of the townsmen did not



possess it; and they were subject to the supervision of the Local Government Board, that is, of the Central Government, to a considerable extent at least. True municipal life, and the municipal sentiment, could not, therefore, become well developed, in the case of towns under such conditions; they showed but few symptoms of the wonderful growth of prosperity and power which has been such a marked feature in the history of the great corporate towns of England, in what may be called the Victorian age, though, no doubt, the cases were widely different—poor Ireland could not, in this respect, compete with wealthy and progressive England. The deficiency of corporate towns in Ireland was felt ere long to be such, that, in 1854, and subsequent years, municipal rights were, in some measure, extended to nearly a hundred of these towns. These places were governed by bodies called Town Commissioners elected by a kind of popular vote; but the authority of these bodies has never been large; the municipal franchise was very high; and these towns were also under the Irish Local Government Board.

Municipal institutions, like others of English origin, had thus, from a variety of causes, when transferred to Ireland, only a stunted, imperfect, and maimed existence. We may briefly glance at the operation of the system of rural and urban local government, of which we have endeavoured to sketch the outlines. Except, perhaps, in the instance of criminal injuries, and of the compensation to be adjudged by them, where they did not always give proof of a judicial spirit, the grand juries, for upwards of two generations, administered county affairs very well; they were economical, prudent, and jealous of expense, if the public buildings they sanctioned were, occasionally, too costly; but the system was an anachronism, and had had its day. In ordinary times the Irish poor law was reasonably well administered by the Boards of Guardians, as well, probably, as was the case in England; they were

rather parsimonious in assessing rates, and gave little attention to the sanitary state of their towns, but, on the whole, there was not much cause to complain of them ; and the Irish people, it must be recollected, have never liked the poor law. The local administration of the cities and the larger towns of Ireland was worse—a notable exception was seen in Belfast ; but these, as a rule, gave proof of the restricted system on which their government had been formed ; the results appeared in a high death rate, in bad supplies of water, in crowds of squalid and deserted dwellings—in a word, in stagnation and a want of progress, if other and powerful causes concurred. When the movement conducted by Parnell acquired strength, almost a revolution passed over the seats of Irish local government, where these, except in Ulster, possessed a popular element. Parnell called on the Boards of Guardians, the Corporations, and the Town Commissioners, in places where the ‘ people ’ had any effective voice, to rally round the Land and the National Leagues ; he achieved remarkable success in the three provinces of the south. This was especially made manifest in the Boards of Guardians, composed largely of farmers of substance, and in which the *ex-officio* guardians had little real power ; these bodies set a crusade against the landed gentry on foot ; marked them out for plunder in many ways ; encouraged ‘ boycotting ’ and defiance of the law ; gave a free rein to rebellious utterances of many kinds ; and denounced Irish ‘ landlordism ’ and British rule in Ireland, as fiercely as they had been denounced at Land and National League gatherings.\* The same phenomena appeared in many of the corporate and inferior towns : the Corporation of Dublin indulged in anti-British threats and speeches ; the Corporation of Limerick refused to pay a lawful tax ;

\* See the Report of a Committee of the House of Lords, and especially of the Evidence, taken in 1884–85, with respect to the administration of the Irish poor law at the time.

the Corporation of Cork proclaimed itself supreme in a 'rebel' city; the example was generally followed in the lesser towns of the south; in short, these bodies became centres of sedition, socialism, and resistance to the law, and widely disseminated their pernicious teaching. In fact, they made themselves agencies of the Land and the National Leagues; at the same time, in numerous instances, they set the authority of the Local Government Board at naught.\*

The system of Irish local government was obviously so defective, so antiquated, so contrary to the spirit of the age, that several attempts, we have seen, were made, long ago, to reform it. It has now been completely transformed on the principles applied to England and Scotland; the occasion of this transformation was somewhat singular. In 1896 considerable relief was given, in England and Scotland, to the landed interest by a subvention made by the State, which defrayed half the charge of the local county rates, the depression of agriculture being so grievous; the justice of this measure was hardly disputed. But the Report of the Childers Commission, declaring that Ireland was greatly overtaxed, and had been for a long series of years, was published about the same time; the Government, probably because it had made up its mind not to countenance the report in any way, refused to extend the same relief to Ireland, although it was as much required—a decision that simply nothing could warrant.

\* For a further account of local government in Ireland, a reader may consult the Report of Mr. W. P. O'Brien on Local Government, 1878, and reports on the towns of Ireland and their taxation about the same date. An excellent tract on the subject was published by Mr. William J. Bailey in 1888, called 'Local and Centralised Government in Ireland.' With respect to the system of municipal government in Ireland as it existed before 1840, nothing is so valuable as the Reports of the Commissioners, very able men, charged to inquire into the subject in 1834-35. A useful and well-informed account will also be found in Mr. Barry O'Brien's 'Fifty Years of Concessions to Ireland,' vol. i. book v.

The indignation, however, expressed in Ireland, and the remonstrances even of the Ministerial Press, angrily as it had challenged the findings of the report, before long changed the Government's purpose; it was formally announced, in 1897, that Ireland would obtain the same boon as Great Britain, and, apparently, as a condition of this, that Irish local government was to be reformed. The measure of 1898 was the result of this compromise; the interdependence of two subjects, which have nothing in common, has made it not easy to interpret; but, as we shall see, its authors have provided, with skill, against one of the dangers the change involved, that is, the probability that it might expose the Irish landed gentry to predatory attacks. Before examining the recent law, I venture to make a single remark. The question of the alleviation of the charge of rates, a concession made to Ireland with bad grace, and made to England and Scotland as a matter of course, has nothing to do with the infinitely larger question of the excessive taxation imposed on Ireland; relief in the one case does not imply relief in the other; the two subjects are altogether distinct. It is essential carefully to keep this in mind, for attempts are being made to confuse the two questions, and characteristically to argue that Ireland ought to rest and be thankful, and not to say a word about her over-taxation, because, forsooth, in common with England and Scotland, she has received assistance as regards her local rates.

The transformation which has been effected in Irish local government has completely changed the old order of things, and is of an extremely democratic character. County government has been taken from the grand juries, and has been extended to bodies known by the name of County Councils, recently formed in Great Britain. The County Councils proper are thirty-two in number, corresponding to the number of the Irish counties; they are

popular assemblies in the fullest sense of the word. They are elected by the ratepayers of their districts, who possess the present extravagantly low suffrage; the right of election is also bestowed on women; and the protection of the cumulative vote has been removed; a cottar has the same voting power as a man of forty thousand a year. Any of these voters may have a seat in a County Council; the body, therefore, may be crowded with petty ratepayers; and women also may have seats. Three members of the grand jury, in each county, are entitled to sit in a County Council, but for a short time only—a provision intended to reconcile the old with the new; the County Councils are given a right to ‘co-opt’ a few members; and the heads of bodies subordinate to them have the privilege of taking part in their counsels. The rights and the responsibilities of the grand juries have, as a rule, been transferred to the County Councils, except in the instance of criminal injuries, and of determining compensation for these; this jurisdiction, subject to an appeal to a judge of assize, has been properly conferred on the County Court judges, for it is essentially of a judicial nature. The powers of the County Councils thus extend to the management and the supervision of the roads, bridges, and buildings for public purposes comprised within their counties, and also to the regulation of villages and petty towns; but, like the grand juries, they are subject to the same control of the Central Government; they must make ‘imperative presentments’ like the grand juries; and, as in the instance of the grand juries, subordinate bodies have the initiative in part of their duties. Their powers, however, have been made larger and wider than those of the grand juries; they have been given the right to assess and levy the poor rate in rural districts, the management of the asylums of the lunatic poor, an authority, in cases of exceptional distress, subject to the permission of the Local Government Board, to sanction relief to poor people out-of-doors, and several

other powers of not much importance. It should be added that the County Councils are not restricted in any way by judge's 'fiats' and by 'traverses' as the grand juries were ; these securities, such as they were, have disappeared ; but their conduct may be controlled to a certain extent by the Superior Courts of Ireland, as that of most public bodies may be, if only through a tedious and costly procedure, and they are more or less under the authority of the Local Government Board.

Six of the principal cities and towns of Ireland, Dublin, Belfast, Cork, Limerick, Londonderry, and Waterford, have been made distinct counties, with the appellation of County Boroughs. The scheme of County Councils has been applied to these also ; the townsmen and townswomen have the same power of voting, and the same democratic suffrage as the counties proper ; the borough assemblies may have the same kinds of members ; but the titles of mayors, aldermen, and burgesses have been preserved, in recognition, so to speak, of strictly urban government. These bodies, which, it will be observed, are popular in the widest sense of the word, have the powers of grand juries within their respective spheres ; but they retain besides their former administrative powers subject to the control of the Local Government Board ; they have thus been changed from narrow and close oligarchies into democracies on the very broadest basis. The County Councils have under them two minor bodies, the Rural District Councils and the Urban District Councils, the characteristics of which may be briefly noticed. The sphere of the authority of the Rural District Council corresponds, for the most part, to the Poor Law Union ; these councils are elected and constituted under the same conditions as the larger councils already described ; they are, therefore, mere democracies in considerable numbers. The Rural District Councils are given the powers of the Baronial Presentment Sessions of the Grand Juries, that is, they may initiate

proceedings as their predecessors did ; they are made the sole guardians of the poor within their districts, the *ex-officio* guardians having been abolished ; their chairmen are members of the County Councils ; it may be added here that rating for the poor has been extended generally over the union, not as hitherto confined to the electoral division and the ward, a questionable provision which will certainly increase the expenditure for the relief of poverty. The sphere of the authority of the Urban District Councils has been made that of the larger towns of Ireland, being sanitary areas within themselves ; but power has been taken to increase the number of these towns, and this increase will be probably witnessed. The Urban District Councils resemble, in their mode of election and their constitution, the other assemblies, that is, they are democracies to the fullest extent ; but they retain the names of Corporate or Town Commissioners towns, and of mayors, aldermen, and burgesses where they possessed these before. The powers of the Urban District Councils are those of the grand juries within the towns, except as respects the larger public buildings, which were formerly charged on 'the county at large ;' these councils levy and assess the poor rate within their districts ; and they retain the powers of urban government they formerly possessed. The Local Government Board has authority, also, over the Rural District and the Urban District Councils.

The entire system of Irish local government has thus been placed on an extremely democratic basis, subject, however, to partial control by the Central Government. This revolution, for it has been nothing less, was obviously liable to be attended by the many mischiefs inseparable from a sudden transfer of enormous powers to local assemblies of the most popular type, to maladministration, waste, and extravagance, and, as especially would be the case in Ireland, to violent or insidious attacks on the

landed gentry. The late measure has provided against these evils, if not completely or adequately, with ingenuity and skill. The relief of Irish agriculture was its first financial object ; to effect this the county cess and the poor rate have been consolidated into a single charge ; and half of this is to be defrayed by the State and appropriated to the relief of agricultural lands, towns and lands, within municipal limits, being excepted. The subvention is not to extend to sums payable in respect of criminal injuries, nor to sums payable in respect of extra police in disturbed districts ; these charges are properly to be borne by local areas as before. The relief afforded is an annual sum of about £700,000 ; it is divided in tolerably equal shares between the owners and the occupiers of the soil, that is, between the landlords and tenants of Ireland ; it is characteristic of Radical clamour, that a boon, the justice of which could not be disputed, was denounced as an 'infamous job' for the behoof of the Irish landed gentry. A powerful check has been placed on extravagance and waste, and on attempts to injure property in land, exposed, we have seen, to undoubted dangers. The relief afforded was calculated on the local expenditure for 1897, in the words of the law, 'the standard year ;' it was regularly to be one-half of this sum. Should the local expenditure, therefore, in subsequent years, be in excess of that of the standard year, the proportionate value of the relief would fall ; should it be a lesser amount, the value would rise. A strong restraint was thus imposed on attempts recklessly to job and waste local funds, and notably to plunder Irish landlords ; but this restriction only applies to agricultural lands ; it does not extend to property in towns ; and it is difficult to say that it will always prove effective against democratic sentiment, passion, and greed. The extent of the relief afforded to Irish landlords differs widely as between landlords of different classes of tenants ; landlords of mere cottars will get very little ; landlords of farmers of



substance will get much more ; but it is unnecessary here to enlarge on this special subject.\*

This sweeping measure, in my judgment at least, might have been better framed to carry out its policy. Like much of the legislation of the Imperial Parliament, it has been fashioned too closely on the English model ; it gives to a poor and backward country, not trained in self-government, local institutions naturally adapted only to an opulent and well-ordered country accustomed for centuries to local liberties. Having regard to the peculiar state of Ireland, it might have made the powers of local government it conferred larger, but it ought not to have been as purely democratic as it is ; and it ought to have been accompanied by safeguards it does not possess. I would have been disposed to give the Irish County Councils a right to take evidence for private Bills on the spot ; this, if transmitted to the Irish Privy Council, and considered by it, might be made the basis of reports by that body, which could be turned into Acts of Parliament, by a summary process, thus getting rid of great and useless expense, and silencing one of the few real arguments in favour of Home Rule. I would also have allowed the County Councils of different counties, in matters in which they had a common interest, say, in the drainage of some of the great Irish rivers, to carry out together public works of this kind, and to assess and levy rates for the purpose if, on consideration, this was deemed expedient ; at present they have no authority like this ; and such a power would, I think, be for the general good of Ireland. The County Councils, too, I believe, might be given a deliberative voice, in cases they have not at present ; for example, should the rate-payers of any county make a demand for sectarian education, within its area, and declare themselves ready to pay

\* I have only been able to sketch the outlines of the measure, the Local Government (Ireland) Act, 1898, p. 1, 62 Vict. cap. 37. A good commentary on it has been written by Mr. Brett of the Irish Bar.

a rate for it, the County Council should have a right to entertain the project, and to report on it to the Central Government. And I am convinced that members of the County Councils ought to have some seats on the Local Government Board, and on other boards now filled by the Castle bureaucracy ; this would introduce a popular element into these bodies, and, in many ways, would be of real advantage. On the other hand, in the election and the constitution of the County and other Councils, democracy has simply been let run riot ; and the resulting evils have already been made manifest. Illiterate persons ought not to have been qualified to be electors ; the single should not have replaced the cumulative vote, property being thus deprived of its legitimate weight ; above all, as is evident, security should have been taken that the landed gentry should have a proper representation on the County Councils. The authority, too, of the Superior Courts over all these assemblies should have been made more effective and less costly than it is at present ; and that of the Local Government Board should have been better defined and increased. In all this province the checks possessed by the Central Government over these local democracies are not, I think, sufficient.

It is impossible, I have remarked, to say with certainty what the end of this social revolution will be ; but some of the results are, even now, apparent. There has, as yet, been little tendency in the local boards to waste, or to attempts to despoil the landed gentry ; the check in this respect is of great force ; but no one, I repeat, can predict what may be done under the influence of democratic sympathies, especially should the existing agitation acquire increased strength in Ireland. Some of the councils have been very fairly managed ; a few others have been badly administered ; as a rule, much time has been misspent in irrelevant talk ; there has been a good deal of squabbling with the Local Government Board ; but, on the whole, the

local business of the counties and towns has been conducted as reasonably well as could be expected in the case of a new and immense experiment. But the consequences of giving raw democracies great and sudden power have already been made but too manifest, as persons, who knew Ireland, foresaw would happen. In parts of Ulster representatives of the landed gentry have been elected to the County Councils ; property in these has still legitimate influence. But in Leinster, Munster, and Connaught, this order of men has been all but completely shut out from these boards ; the land is not represented at all ; this is an absolutely unnatural position of affairs, pregnant with many ills to the community as a whole. It is not only that the landed gentry have been deprived of an influence they ought to possess, in a society in any degree well ordered ; this change has a tendency to make them more and more, what they have largely been made already, a privileged class without duties, akin to the old seigneurie of France, a state of things of which Tocqueville has powerfully described the evils. In the southern provinces, too, the new democracies, composed of Catholic ' Nationalists,' by large majorities, have driven loyal, and especially Protestant, men and women from local offices they had filled with credit, and this too at a considerable charge on the rates, a clear proof how no restraints can be wholly effective. But the main feature in the conduct of the County and other Councils is that in most parts of Ireland they have followed the advice given by Parnell to their weaker forerunners ; they have made themselves agencies of the United Irish League, as boards before them were agencies of the Land and the National Leagues, and they have given but too ample proof of disaffection, disloyalty, and hatred of British rule. In some counties, the councils seized the court houses, and refused light and fire to the Superior and the County Court judges. Throughout the South of Ireland most of the boards vied with each other

in wild expressions of sympathy with the Boers, and of hopes that disaster would befall the British army; many gave free voice to frankly rebellious language; many denounced Irishmen being recruited for the British army. Nor did these sinister exhibitions end here; some of these bodies went out of their way to sneer at their aged sovereign, when she paid last year her last visit to the Irish shores, to question her motives, to speak all kinds of evil; a few even refused to say a word of regret for her death, nay, indulged in language of scarcely veiled insult. These councils, in a word, in a number of instances, have shown a marked resemblance to the Assemblies of the Communes of Jacobin France, indignantly held up to execration by Burke; they have been petty nests of seditious agitation and clamour. It is at least well that this manner of men has not succeeded, in the great statesman's language, in 'ascending from parochial tyranny to federal anarchy,' and have warned us what would be the nature of a Home Rule Parliament.

This scheme of local government must be given a trial; but ultimately it will have to be reformed, in a Conservative sense, if things in Ireland are not to be left upside down.\* I turn to the subject of Irish education, which has been lately attracting much public attention. University education is the most prominent part of this question; but, in order to understand it, we must briefly consider the history of Irish education in all its branches. The first scheme of primary education in Ireland, of which we have a record—I pass over the traditions of the Middle Ages—was due to

\* Mr. Lecky, 'Democracy and Liberty,' Cabinet Edition, Introduction, p. 13, has well described this vaunted reform: 'It was a measure introduced in fulfilment of distinct pledges, and it contains very skillful provisions intended to protect existing interests. But, after all is said, it means a great transfer of power and influence from the loyal to the disloyal, and it goes in the direction of democracy far beyond anything that a few years ago would have been accepted by the Conservatives, or by the moderate Liberals.'

the policy of Henry VIII. ; he procured an Act from the Irish Parliament, to the effect that elementary schools should be set up in different Irish parishes ; but, true to the ideal of Tudor statesmen—an ideal, however, which he did not always pursue—he required that these should be ‘English schools,’ to teach the Irish poor ‘the English language.’ Many years passed before these schools were found beyond the borders of the Pale ; but, as the march of conquest advanced, they existed in many Irish parishes ; there were more than five hundred of them in 1810, the largest number probably they ever attained. These schools were originally intended to be open without distinction of creed ; but, under the conditions of Irish history, they necessarily became confined to the lower Protestant classes ; they were under the control of the clergy of the Established Church, and Catholic children were kept away from them. Elizabeth founded another class of schools, in part elementary, in part of a higher type ; these were known as the Diocesan Irish Schools ; but there seem never to have been more than sixteen of these ; and they, too, became exclusively Protestant. To these schools should be added ‘the English Erasmus Smith Schools,’ as they were called, foundations grafted, so to speak, on grammar schools established by a wealthy Cromwellian settler ; at one time they were more than one hundred in number ; and if not wholly, they were nearly confined to Protestant children. A series of Reports of Commissions and other records show that the education afforded in all these schools was not what it ought to have been ; but this was to be expected in the case of a country where Protestant ascendancy was supreme, where all administration was selfish and corrupt, and where the schools were the monopoly of a fraction of the people only. As to the education of the Irish Catholic poor in these centuries, it was discouraged, and ultimately prohibited by the penal code ; the Catholic child could not learn the rudiments in his

own land ; but in spite of this, 'hedge schools,' a significant name, grew up, in hundreds, throughout the country, in which, to adopt the words of Davis, a man of genius—

'Still crouching 'neath the sheltering hedge, or stretched on mountain fern,  
The teacher and his pupils met feloniously to learn.'

As may, however, be supposed the instruction afforded in these schools was usually bad ; throughout the eighteenth century and a part of the nineteenth, the young of Catholic Ireland were brought up in ignorance. In 1733 an odious experiment was made, and continued for a long period, to cause education to wean the Catholic child from his faith. An institution, called the Charter School, was established ; the object of its founders was to make 'the young of the Papists' Protestant, by attracting them' to seminaries where they were kept apart from their parents and priests, boarded, lodged, and handed over to Protestant tradesmen ; millions were spent in furthering a detestable policy, which literally set up Mammon against God. The Charter Schools, however, completely failed ; they never had more than fourteen hundred pupils, and they became wretched Dotheboys Halls where cruel and pampered Squeerses, eating up funds set apart for education such as it was, starved and ill-treated children victims of every kind of disease.

When the partial relaxation of the penal laws allowed the children of the Irish Catholics to be taught the rudiments, the 'Christian Brothers' began to found their schools, under the sanction of a Bull of Pius VI. ; these schools, sectarian, like the genius of the Irish people, have, though receiving no endowment from the State, grown from small beginnings into a number of excellent Catholic schools. The Quakers in Ireland had established a few elementary schools before the Union ; and so had the Presbyterians of Ulster. The Charter Schools lingered

down to the year 1832; they disappeared when their subsidies ceased; but the 'Incorporated Irish Society' is in possession of the lands they once held, and it supports a number of good Protestant schools. Primary education, however, in Ireland remained very backward; the Protestant schools did not flourish; the Catholic 'hedge schools' continued until the nineteenth century had far advanced. Attempts were made to promote Irish primary education, in different ways, after the Union; a Board of Commissioners of Education was appointed, and made valuable reports; but these efforts were of little avail for the benefit at least of the Catholic young; the schools thus established were all Protestant; and the evangelical movement, which was then powerful, made them proselytising with scarcely a single exception, a danger which the example of the Charter Schools had especially made the Catholic Irish priesthood dread. An institution, however, called the 'Kildare Place Schools' had, for a time, considerable success; these schools were thrown open to children of all creeds, and had the high approval of O'Connell himself; but it was one of the rules that the Bible should be read in the schools; they became proselytising in no doubtful sense, and ultimately they were tabooed by the Catholic priesthood. Primary education in Ireland was in this state, when the subject was taken up by Mr. Stanley, the Chief Secretary for Ireland of Lord Grey, and, in after years, the 'Rupert of Debate.' He founded in 1831-34 what has ever since been known as the 'National System of Education' of an elementary kind in Ireland. The principles on which he proceeded were in accord with the somewhat shallow Liberalism of the day, but, it must be added, with the ideas of many enlightened Irishmen. Primary education was to be endowed by the State, but it was to be divided into two parts: secular instruction was to be given in the new schools to children assembled together to learn, and that without distinction of creed;

but religious instruction was to be given to children kept apart, Protestants and Catholics being completely separate, by the pastors of their respective communions. By these means it was hoped that a sound system of primary education would be formed ; that proselytising would be made impossible ; and that the youth of the warring races and faiths of Ireland, under the influence of a common teaching, would be made gradually to forget the animosities of the past. The National Schools were to be the Lethe of Irish discords.

I can barely glance at the chequered history of the institution which was thus established. The 'National System,' the name long in common use, was angrily condemned by the clergy of the Established Church of Ireland, and by a majority, perhaps, of the laity ; this opposition was partly due to the spirit of an ascendancy that would not brook equality ; but it was largely to be ascribed to a higher motive. The new system, it was argued, cut education in two ; the separation of what is secular from what is religious practically postpones what is divine to the human ; and this is especially the case under the arrangements in force, for religious instruction in the schools may be a mere accident. The Irish Protestant clergy, and many other Protestants, have never taken to the National Schools ; their sincerity is proved by the fact that a 'Church Education Society' exists, which, though depending on voluntary subscriptions alone, supports nearly two hundred exclusively Protestant schools. As for the Presbyterians of Ireland, the National system of education fell in with their views ; its 'Liberalism' was congenial to them ; but though schools of this type have flourished in Ulster, the Presbyterians have given a great deal of trouble to the Commissioners charged to carry out the law, and have shown much animosity to the Catholic Irish. The Irish Catholic priesthood at first accepted the National system almost with gratitude ; it gave their flocks



a rudimentary instruction they were much in need of; it seemed to provide against the proselytising they feared above all things; and during some years the heads of their Church in Ireland, for the most part not of the Ultramontane faith, were not indisposed to welcome a compromise. By degrees, however, opposition grew up in Catholic Ireland against the system; and, it must be allowed, not without reason. The Catholic element on the Commission was much too weak; the purely secular instruction in the schools was made partly religious, for books of a Protestant complexion found their way into them; a cry of Protestant proselytising was raised; and the National system was solemnly condemned in 1850, at the great Catholic Synod of Thurles, a sentence, however, which had no effect on the Government. But the real grievances of the Irish Catholics, in this matter, have nearly all been removed; the Catholic Commissioners have been made equal in number with the Presbyterian and Protestant; secular instruction in the schools has again been made strictly secular; attempts at proselytising have long been rendered impossible; it should be added—and this is very important—the Catholic priesthood have become the managers of a large majority of the schools. The system has certainly struck deep roots in Ireland; there are now nearly 9000 National Schools, endowed with about £1,300,000 by the State, and teaching nearly 800,000 pupils; they are supported by model and training schools, and have a large staff of competent teachers; the instruction they afford, if not remarkable, is, on the whole, sufficiently good. It may fairly be said that the National system has been a beneficent influence of the greatest value; light has shone on a people that once sate in darkness. The system, however, has become, insensibly, but greatly, changed; the National Schools have long been, for the most part, sectarian, that is, composed of Protestant or of Catholic children; the ‘mixed’ schools,

as they are called, are comparatively few. But the main principle of the system still is in force ; the instruction given in the schools, when the pupils sit together, is strictly secular ; and this is secured by a conscience clause ; the Bible cannot be read, in school hours, even in a Protestant school ; no Catholic school can have a Catholic emblem. The religious instruction given in the schools is hardly what it ought to be, especially in the case of the Protestant schools ; it must be added that the hope of their founders that they would bridge over the gulf of discords in Ireland has not been, in the slightest degree, realised.

The Irish are, naturally, a religious people ; their history, a long conflict of races and faiths, has, necessarily, made them intensely sectarian. The system of education, of which I have traced the outlines, was certainly not well designed for them ; it would have been severely condemned by Burke, the deepest of thinkers on the affairs of Ireland. And though the National system has had a real measure of success, it owes this, in the main, to the immense subvention it receives from the State ; it has little or no support from voluntary aid ; an attempt to impose an education rate on Ireland would be a failure, would not improbably wreck the system. Nor is this in harmony with genuine Irish sentiment ; one of the most conclusive proofs is that National education has become, to a great extent, sectarian ; the 'Christian Brothers' and the 'Church Education Society' schools, sustained by voluntary effort alone, and overweighted in the race by the endowed schools of the State, show how strong is Irish sectarian feeling. The clergy, too, of the late Established Church, and a considerable body of their communion, remain hostile to the National Schools ; and though the Catholic priesthood have made them, to a great extent, their own, and avail themselves of the advantages they afford, they are hardly in heartfelt sympathy with them. Nor can it be

denied that the conscientious objections to the National system have real weight ; the system, if not irreligious, is, we may say, neutral ; it does not make religion an essential part of school life. It would, nevertheless, I believe, be exceedingly unwise to disturb a system which, on the whole, has for many years had excellent results in Ireland. The opposition to it is not strong ; the children of the humbler classes freely avail themselves of it, and that with the full consent of their parents. Nor is the conscientious objection of much force in the case of schools which are only day schools, and in which the rudiments alone are taught ; this is not the case of education of the higher kind, in which this objection is perhaps decisive ; and it cannot be said that the National Schools have, in any sense, impaired the religion of the Irish people.\*

I pass from elementary to schools of a secondary kind in Ireland. The Diocesan Schools of Elizabeth were nearly all secondary schools ; but they were never numerous, and have all but disappeared. The two first Stuarts made an attempt to establish secondary education in Ireland on a larger scale. They founded the 'Free Royal Schools,' as they have been called, now seen at Armagh, Cavan, Dungannon, Portora, and Raphoe ; they endowed them with lands perhaps worth in our day, £6000 a year ; they looked forward to a time when they might rival Eton, Winchester, and the great public schools of England.

\* For a description of elementary education in Ireland up to 1812, see passages in Wakefield's 'Account of Ireland ;' and for a description in earlier and later times, see Mr. Barry O'Brien's 'Fifty Years of Concessions to Ireland,' book i. chs. i.-xiv. ; Mr. Graham Balfour's 'Educational Systems of Great Britain and Ireland,' pp. 80-128 ; the Report of the Commissioners of Irish Education, 1810-21 ; the important Report of the Powis Commission, 1870-71 ; and the Reports of the Commissioners of National Education in Ireland. Mr. Froude, in his 'English in Ireland,' vol. i. p. 514 ; vol. ii. p. 491, has characteristically eulogised the Charter Schools ; but he stands alone ; Mr. Lecky, 'History of England in the Eighteenth Century,' vol. ii. pp. 200-304, has commented on this odious system as it deserved.

Erasmus Smith established three considerable 'grammar schools,' and granted valuable estates for their support; a tolerably large number of secondary schools was also founded, from time to time, by benefactors of the dominant race in Ireland: of these Kilkenny College, a seminary created by the House of Ormond, which reared Swift and Berkeley, was the most conspicuous. These schools, though often nominally open to different creeds, became, nevertheless, in the eighteenth century, under the Protestant ascendancy, supreme in the land, restricted to the young of the Protestant caste; they felt the effects of monopoly, and of the corruption prevailing in the State; the education they afforded was, for the most part, bad; their governing bodies and masters were often grasping and selfish. After the relaxation of the penal code, the Irish Catholics began to found secondary schools; their exertions were, in a high degree, praiseworthy; and though these schools received no support from the State, some of them have done really excellent work. A number, too, of secondary schools were established in Ulster, for the most part for Presbyterian uses; some of these are sectarian, some open to all faiths; some have, others have not, received assistance from the State; in several the education given has been, on the whole, good. A few secondary schools—St. Columba is much the best—have also been founded within the last century, usually for the benefit of the late Established Church of Ireland.

The progress made by secondary schools in Ireland, even in the nineteenth century, has not been rapid. It is not to be named with the immense development of public schools in England, within the same period, caused, in some measure, by the genius of Arnold; secondary Irish schools, in fact, have been largely a failure, like other institutions of British origin. This is mainly to be attributed to three reasons: the higher upper classes in Ireland usually send their sons to be educated in the great English public

schools; the Irish secondary schools are seldom well endowed; above all, the upper middle class in Ireland is small and has little influence. Two Commissions, appointed in 1854 and in 1878, examined secondary education in Ireland as it then existed; their reports give a far from favourable account of the system. The secondary Irish schools have not been much affected by an Act of Parliament passed in 1885, which provided for making better schemes for their management; but certainly they have derived very great benefit from the Intermediate Education Act of Lord Cairns, which established a system of competition between them, and secured prizes for successful competitors. In these honourable trials the Catholic schools have done well; but even now the secondary schools are decidedly inferior to what they ought to be, and do not exhibit many signs of improvement. An impartial inquirer thus described them in 1871: \* 'Upon the whole, secondary instruction, throughout the country, was as some one—I believe Lord Cairns—said, "bad in quality and deficient in quantity." The fact seems incredible, but there can be no doubt of its authenticity, viz. that out of a total population of 5,500,000, there were only 10,814 boys in Ireland learning Latin, Greek, or modern languages in 1871. Or, to put the matter in another way, while in England about ten or fifteen in every 1000 were instructed in these languages, only two in every 1000 were instructed in them in Ireland.' †

I pass on to University life in Ireland, the question, I have said, most prominent at this time. Ireland had no

\* Barry O'Brien, 'Fifty Years of Concessions to Ireland,' vol. ii. p. 322.

† See Wakefield's 'Account of Ireland' for the state of her secondary schools in 1812; Barry O'Brien's 'Fifty Years of Concessions to Ireland,' book x. chs. i., ii., iii.; Graham Balfour's 'The Educational System of Great Britain and Ireland,' pp. 203-218; and the Reports of the two Commissions of 1854-57 and of 1878-80, of which the heads were Lord Kildare and the Earl of Rosse.

Oxford or Cambridge in the Middle Ages ; an attempt to establish a University in Dublin failed ; science and literature could not grow up in a land distracted by feudal and tribal strife, and in which two Churches were continually at war with each other. Elizabeth founded Trinity College towards the close of her reign, on the site of a monastery that had been suppressed ; it was the intention of the queen, and of her two first successors, that this seminary should expand into a University in the true sense, containing a number of colleges within its sphere, and probably open to all students whatever their race or their faith. This happy consummation, however, was made impossible during the long period of civil war and trouble, which only came to an end with that of the seventeenth century. Trinity College remained a single foundation ; and, in the era of Protestant ascendancy that ensued, when Catholic Ireland lay under the ban of the penal code, it necessarily became an exclusively Protestant place of learning, its dignities, its honours, nay, admission to it, being reserved to members of the Established Church. It had, however, been amply endowed ; and, from an early period, it possessed many distinguished worthies, the names of Ussher, of King, of Browne, and of others, being still remembered. Trinity College, strange to say, was very High Church during the reigns of the two last Stuarts and of Anne ; its leading divines preached the creed of passive obedience ; and it was remarkable for its aversion to Presbyterian Ireland, as was clearly shown in the diatribes of Swift. The college, however, became Whiggish and Low Church during the reign of Walpole—its Provost was appointed by the Crown ; and until nearly the close of the eighteenth century, its professorships, its fellowships, its scholarships, its degrees, even entrance to its walls, were strictly confined to the dominant communion of the Anglican Church. But a liberal spirit grew up, and gained strength within it ; this appears in many of the admirable writings

of Berkeley, breathing the ideas that afterwards inspired Grattan, and in the histories of Leland and Warner, on the whole just to the vanquished Catholic people ; and after the almost National movement which produced the Revolution of 1782, Trinity College took a remarkable step, which proved that it was in advance of the politics of that age. In 1793, when the Irish Parliament passed a great measure of Catholic relief, the college made Catholics eligible for its degrees and its minor prizes ; and, but that its statutes made this impossible, it would, perhaps, have allowed Catholics to become professors, fellows, and scholars—in short, to have a share in its dignities and its government. Nothing like this was done at Oxford and Cambridge until the nineteenth century had run far its course.

From this time onwards Trinity College, accessible to Presbyterians some years before, received Catholics honourably within its precincts. A few distinguished Catholic Irishmen have obtained the excellent education it has always afforded ; and these have been treated with scrupulous fairness ; no attempt at proselytising has ever been made or thought of. Their numbers, however, have never been large ; and they were necessarily placed in an inferior position, for they could not become professors, fellows, or scholars ; the college remained an institution essentially Protestant, even anti-Catholic, in much of its teaching, for example, in the predilection it long showed for Locke. The college continued to thrive and to make progress ; the reproach cast on it that she was the ‘silent sister,’ was rather due to the want of publishing enterprise in the Irish capital, than to any deficiency in literary power ; at all events, it has long ago been removed ; Trinity College has stood for a century in the foremost rank of places of learning famed for scientific eminence. In 1843-44 an attempt was made to introduce Catholics on the foundation, as scholars ; but this was prohibited by

the statutes; some 'non-foundation' scholarships were then endowed; and Catholics were enabled to compete for them. This was the position of the college, when, in 1844-45, after the agitation for Repeal had shown how disaffected Catholic Ireland still was, Peel turned his mind to Irish remedial measures, and among these to a reform of high education in Ireland. His policy was to maintain the Union intact, and all the institutions closely connected with it, but to create institutions, so to speak, alongside of these, to which Irish Presbyterians, and Catholics especially, might freely resort, in complete equality with all Irishmen; he therefore left Trinity College exactly as it was, but resolved to establish and endow places of learning, which he hoped would be popular supplements to it, and would give a University training to students who, as affairs stood, were not on the same level as the favoured Protestants in it. He founded the Queen's Colleges of Belfast, of Cork, and of Galway; these were supplied with an ample staff of professors, endowed, and given the means to bestow many prizes; and they were affiliated to the Queen's University, empowered to confer degrees. The principle on which these institutions were formed was, following the so-called liberalism of the time, almost exactly the same as that on which the Irish National Schools had been based. Secular education in them was to be united, religious education was to be kept apart; their students were to learn the things that belonged to this world together; but as to what belonged to another world, this teaching was to be provided by their pastors outside their colleges, and they were not to have it in common. The colleges, and the University, therefore, were essentially seats of non-religious knowledge; religious equality, it was said, could be only thus secured; and residence in the colleges was not required.

The principle pervading the Irish National education system was certainly open to grave objections; these



became infinitely stronger, when it was applied to a system of high education in Ireland. Secular instruction could be really combined, and given to children together, when limited to the first rudiments : how could it be combined when it should embrace such subjects as moral philosophy, metaphysics, modern history, nay, physical science, and when taught to young men of the University age ? Besides, religious instruction, without a great shock to conscience, could be made a subordinate consideration in mere day schools : how could it, consistently with Christian duty, be practically excluded from a University course, and left to undergraduates to be dealt with as they might think fit, and that at the most critical time of their life ? Indifference to the Divine, masked in specious 'liberal' phrases, was, in truth, the cardinal feature of this scheme ; it would have been severely reprobated by Burke ; it was repugnant to the ideas of five-sixths of Irishmen ; its tendency was to form minds in superior men, like those of Hume and Gibbon, in inferior men, to produce infidel, even atheistic, sentiments. It was denounced as 'godless' in the House of Commons by the High Church party ; it was condemned by O'Connell, from the outset, though the men of 'Young Ireland' were not adverse ; after some hesitation, it was rejected unequivocally by the Irish Catholic bishops,\* and finally was held up to anathema at the Synod of Thurles. That the bishops were sincere is proved by the fact, that they established the Irish Catholic University a few years afterwards—the first head of this creation was Newman ; and the foundation has been maintained ever since, though it could not give a degree, and it received nothing from the State, and its only funds were the contributions of a poor communion, a noble example of self-sacrifice and of a true sense of duty. Meanwhile, the Queen's Colleges and University were kept up and endowed, at the rate of about

\* See the resolutions in Duffy's 'Young Ireland,' pp. 713, 714. There has been much misrepresentation on this subject.

£30,000 a year ; the College of Belfast has done well, for it falls in with Presbyterian ideas ; but the Colleges of Cork and of Galway, notably the last, have been sorry, nay, almost useless, failures ; and Peel's hope that his project would secure a good University training to Irish Catholics of the better class has not been, to any real extent, fulfilled. Trinity College remained for many years unchanged, that is, it gave an admirable education to a very few Catholics ; but it continued to be a Protestant institution in its essential nature ; its governing body and its hierarchy were all Protestant ; its teaching was Protestant in some of its parts ; its higher honours were a monopoly of the favoured communion.

The extreme unfairness of this University system, the ascendancy secured to Trinity College, which, admirable institution as it was, was practically nearly confined to Protestants of the upper class ; the failure, with respect to Catholic Ireland, of the Queen's Colleges and the Queen's University, and the large and useless expenditure this involved ; above all, the denial to the Catholic University of any share in the bounty of the State, though its claim to it could be hardly doubtful,—attracted the attention of several statesmen, from 1850 to 1870 ; but nothing was done, or even attempted. The subject was taken up by Mr. Gladstone, with characteristic earnestness, during his first Ministry ; he declared that University education in Ireland was 'a scandal ;' indeed, Irish education of the higher kind was the third branch of the upas tree which threw its baleful shade over the land. He brought in a measure of reform in the session of 1873 ; it was an ambitious and a comprehensive scheme ; but it was much the worst of his Irish reforms of this period ; and it ended in complete and disastrous failure. With the historical instinct occasionally seen in his legislation, Mr. Gladstone proposed to revive the idea of Elizabeth and the first Stuarts, and to found a great National University, which

was to have the management and control of the higher education throughout Ireland. The governing body of this new institution was to be composed partly of men chosen by the Lord-Lieutenant, and partly of the heads of the colleges to be connected with it; and it was to have the sole power of conferring degrees in Ireland. Trinity College was to hand over to the National University a sum of £12,000 a year, that is, more than a fourth of its endowments from the State; its professorships, its fellowships, its scholarships, in a word, all its prizes, were to be thrown open to all its students whatever their faith; but in most other respects it was not to be essentially changed, except as to the power of granting degrees. Trinity College was to be affiliated to the National University as a dependent college, and so were a number of minor colleges; but this remarkable distinction was made in homage to the 'liberalism' of the day: the Queen's Colleges, that of Galway being suppressed as useless, were to retain the endowments they received from the State, on the ground that they were free to all comers; but the Catholic University was not to obtain a shilling, nor yet other colleges of a sectarian type, on the ground that they were 'close and exclusive,' this being the case of all the Catholic colleges that could be affiliated to the new foundation. The Queen's University was to be abolished, for the National University was to be sole and supreme; and then came provisions, which, strange as they may appear at first sight, were perhaps inevitable under the conditions on which the project was formed. Moral philosophy, metaphysics, and modern history were shut out from the National University course; they might be taught in the colleges, but were to be no part of University learning. And the National University, like the Queen's Colleges, was to be 'non-religious;' its system of education was to be secular and united, that is its students were to be examined together in secular learning, but in religious

matters they were to stand apart ; religion, indeed, might be a subject of college teaching, but it was not to be heard of within the University walls ; in fact, it was probably to be left to the students and their clergy.

This complicated measure, not easy thoroughly to understand, was sustained, for a few days, by the glamour of Mr. Gladstone's rhetoric. But ere long it arrayed against it an immense preponderance of opinion in Ireland, and was assailed with fatal effect in the House of Commons. The Heads of Trinity College took the initiative in declaring against it ; in debates, wise, patriotic, and just alike, they recognised the claims of Catholic Ireland ; but they protested against the wrong being done to the great and ancient foundation they represented, and especially against the degradation to which it was subjected by the Bill. Trinity College was to be deprived for no reason of a large part of its revenue ; it was to be placed under a governing body, in which nominees of the Castle would be all-powerful—an influence pernicious to its independence and self-government ; above all, the National University was to supplant it, and was to exclude from its teaching the noblest studies of the intellect of man. The Platonism which had inspired Berkeley, the records which had animated the genius of Burke, and had been fostered in the Alma mater of these great worthies, were to be banished from a foundation which was to be made the head of University life in Ireland. These sentiments were fully shared by enlightened Irishmen : that moral and metaphysical science and modern history should be virtually proscribed in the University about to be set up, was, as it were, putting out one of the eyes of the intellect, effacing what was best in the map of knowledge. But the most decisive condemnation of the scheme was that pronounced by the Irish Catholic bishops. Like their predecessors of nearly thirty years before, and the Anglican High Church party of that day, they asserted that the

project was really 'godless ;' it was irreligion in the mask of non-religion ; its liberalism was in the highest degree illiberal, for it offered their flocks a system of education it was known they would reject ; and it was flagrantly, nay, basely, unjust, for while Trinity College, and the Queen's Colleges, and the Queen's University, were to remain endowed, the Catholic University and all Catholic colleges were to get nothing from the State. These arguments made their way into the House of Commons, and were vindicated in speeches of great ability. Disraeli dwelt especially on the poverty and the imperfection of a University scheme, in which the finest branches of knowledge were not to enter ; he frankly denounced the Bill as 'atheistic,' an epithet which Burke assuredly would have fastened on it. Other speakers, notably Ball, a very brilliant Irishman, enlarged on the wrong done to Trinity College, and earnestly advocated the Catholic claims ; not only was the minister offering a stone for bread, he was virtually trying to bribe the Irish Catholic into accepting institutions he disliked, and in the attempt was deeply offending his conscience. Notwithstanding the efforts of a powerful Government, the Bill was rejected by the House of Commons ; nearly all the Irish members voted against it, and so did the best men of the Liberal party.

The year that witnessed the collapse of Mr. Gladstone's measure, witnessed, also, a reform of Trinity College conceived in the spirit of the 'liberalism' of the hour, and hailed as an illustration of what is called progress. The government, the dignities, and the prizes of the college were thrown open to all without regard to their creed ; this was welcomed as 'University equality' in the most perfect sense. It is a mistake to suppose that a corresponding change was ever made at Oxford and Cambridge ; the extension of their privileges to persons whatever their faith, has, thanks to the exertions of the late Lord Selborne, been strictly confined to lay offices ; the

religious character and teaching of the Universities have been carefully preserved.\* Though Trinity College has been made 'non-religious' by this measure, and that to such a degree that its governing body might conceivably be composed of avowed atheists, it has, nevertheless, to this day remained a Protestant institution in all essential respects. Its professors, fellows, and scholars have, since 1873, been nearly all Protestants; its Catholic students are not eight in a hundred of the number as a whole; and the chief practical result of the late reform has been to make the heads of the Irish Catholic Church more opposed than before to seeing Catholics enter its precincts. In 1879, Lord Beaconsfield's Ministry made an attempt to diminish the injustice done to Irish Catholics by the system of University education still in force in Ireland. The Queen's University was abolished; a Royal University was established, which was enabled to confer degrees on, and to give prizes to, the students of the Catholic University and other colleges; but the Royal University is a mere Examining Board; it is not a University properly so called. One incident connected with this institution deserves attention; the success of the students of Catholic colleges at the Royal University examinations has been so great, that it ought to silence jeers at the 'superstition' which keeps them back, the vulgar cant of ignorant prejudice or worse.† Meanwhile the iniquities and anomalies of the Irish University system have continued but very little changed.‡ Trinity College remains a Protestant institution

\* See 'The Problem of Irish Education,' by Butt, a masterly and impartial tract.

† See for the figures 'The Irish University Question,' by Archbishop Walsh, *passim*.

‡ For further information on the history and the present state of the University system in Ireland, see 'The History of the University of Dublin,' by the Rev. J. W. Stubbs, and 'The Constitutional History of the University of Dublin,' by D. C. Heron; Howley on 'Universities;' 'What is meant by Freedom of Education,' by the

well endowed, almost a monopoly of the Protestant upper class in Ireland, practically little resorted to by Irish Catholics; the Queen's Colleges are avoided by the Irish Catholics, as being 'irreligious' if called 'non-religious,' though the College of Belfast suits Presbyterian views; they, too, receive a large bounty from the State; but the Catholic University, the true seminary for the upper middle Catholic classes, and now divided into different colleges, is still, as such, left out in the cold. Its students, no doubt, can obtain Royal University degrees, and some of its professors have been placed as examiners on that foundation; but it is the veriest mockery to call this justice when we look at Trinity College and the Queen's Colleges. 'The words of scripture are reversed,' in Macaulay's language; 'the rich are filled with good things and the hungry are sent empty away.'

I do not envy those who, whatever their reasons, refuse to acknowledge the wrong done by these arrangements. It will hardly be denied, in the twentieth century, that Protestant ascendancy ought not to exist in any sphere of Irish affairs, and that in University life, as in all matters, Irish Catholics ought to have civil equality, and that without a violation of the rights of conscience. It has been triumphantly maintained that, in high education, these conditions are actually fulfilled in Ireland; Trinity College and the Queen's Colleges are accessible to all students, without regard to their religion or no religion; these have a perfectly equal right to share in the government and the honours of institutions thrown completely

O'Connor Don; 'University Education,' by an Irish Protestant Celt; and especially 'The Problem of Irish Education,' by Butt. See also the Irish University Debates in Hansard for 1873, and the very able debate in Trinity College. The reader, too, may be referred to Mr. Barry O'Brien's 'Fifty Years of Concessions to Ireland,' book xi.; to Mr. Graham Balfour's 'Educational Systems of Great Britain and Ireland,' pp. 273-288; to Mr. Godkin's 'Education in Ireland;' and to Archbishop Walsh's 'The Irish University Question.'

open. But those who argue in this way either shut their eyes to facts, or will not perceive that this fine 'liberalism' in Ireland works sheer injustice. Catholics are but a handful of students in Trinity College and the Queen's Colleges compared to what their natural proportion ought to be; Trinity College, if nominally open, is in all essential respects Protestant; the Queen's Colleges as being 'non-religious,' that is, in the view of their Church 'irreligious,' are practically avoided by Irish Catholics; yet the State endows Trinity College and the Queen's Colleges; it starves the Catholic University and other Catholic colleges, which are thus unfairly handicapped by their rivals. If this is not furthering Protestant ascendancy in Irish high education, and denying civil equality to Irish Catholics who, in this matter, will not forego the rights of conscience, I do not know what else it can be; it seems to me to be iniquity in no doubtful sense. And are the objections of the Irish Catholics, in this province, as 'irrational' and 'superstitious' as has been scoffingly said? Reverse the case of Trinity College: suppose that England was a Catholic Power, and that she kept up a great Catholic University in the Irish capital, discountenancing Protestant institutions in many ways, how many Protestants would enter its walls, how soon would the cry of Catholic ascendancy be raised? Or suppose that Oxford and Cambridge were made 'non-religious,' as the Queen's Colleges in Ireland are, would not an immense majority of English parents declare that these seats of learning were 'godless,' and persistently keep their sons away from them? The simple truth is that the Catholic objections to Trinity College and the Queen's Colleges are really those which, in this matter, have been entertained by the deepest thinkers; to my mind, at least, they seem perfectly well-founded. As to the statement that these objections are those of the Irish Catholic bishops alone, and are mere 'superstitious fancies,' it is enough to reply



that, on two occasions, the Irish Catholic laity have distinctly pronounced on this subject, and have declared that they agree with the heads of their Church. And as to the argument that Catholic States do not endow sectarian institutions like the Catholic University and other Irish Catholic colleges, it will be quite time enough to examine this when anything like such a state of things can be found as that which at present exists in Ireland.

One argument, however, seldom frankly set forth, but hinted at in a variety of ways, has been a real obstacle to a reform of this vicious system; it strongly appeals to British national prejudice, of all aberrations of opinion the most difficult to overcome. 'Popery,' it is said, is a 'detestable thing;' a 'Protestant' State 'must have nothing to do with it;' to endow a Catholic University in Ireland, therefore, or any colleges of the same complexion, would be 'sacrificing to Baal,' or something as wicked. Catholic Ireland must put up with Trinity College and the Queen's Colleges, which have been made open to all sorts and conditions of men; its 'conscientious objections' are mere 'bigotry.' This reasoning, which condemns as impious the religion of the greatest part of Christendom, would unfortunately overthrow many arrangements by which provision has been made in our 'Protestant' State for Catholic institutions of different kinds; if pushed to its consequences, it would revive the penal code in Ireland, and lead to the confiscation of Catholic charities. But though it has still indirectly an effect on some politicians, it is, in its naked simplicity, only the faith of Mr. Kensit and of those who walk in his footsteps; it is worthy of the philosophy of Lord George Gordon, of the meekness of Orangeism, of the bray of Exeter Hall. For some time a turn in British opinion has happily taken place; 'liberalism,' it has been perceived, in Irish University education has failed; Mr. Arthur Balfour has made himself conspicuous in advocating the just claims

of Catholic Ireland. Even as I write a Commission is being appointed to consider the whole subject of University life in Ireland ; there can be no reasonable doubt that it will fully bring to light the anomalies and the unfairness of the existing system, and will recommend that the Catholic University, and other Catholic colleges perhaps, shall be endowed. In truth, things have already come to such a pass that Trinity College, the one institution of which, it is said, 'all Irishmen are really proud,' will, owing to the exceptional favour it receives from the State, be placed in grave danger, and the Queen's Colleges also, if a Catholic University in Ireland be not established and endowed, in order to secure to the Irish Catholic civil equality, in high education, through the assistance of the State.\*

On what principles, then, and by what means, is University education in Ireland to be so reformed as to do equal justice to all Irishmen, to place Protestants, Presbyterians, and Catholics on the same level, and, especially, to vindicate the rightful claims of Catholic Ireland ? Two leading projects have at least been sketched out : the first, the grander and the more ambitious, but, in my judgment, scarcely possible to carry into effect ; the second, more simple, more in harmony with existing facts, and, I think, safer and much more easy to realise. The first scheme,

\* Too much is not to be made of 'Nationalist' clamour ; but these remarks of Mr. Dillon, M.P., are significant (*Freeman's Journal*, April 13, 1901) : 'I do not believe that these movements will ever succeed . . . until that fortress of English domination and anti-Irish bigotry, Trinity College, is for ever swept away, or there is placed opposite to it a truly National University, where the most honoured classes will be the classes of Irish literature and Irish history.' Archbishop Walsh, a much abler man, has written in the same sense in his work, 'The Irish University Question.' The question, he contends, in many passages, must be settled by levelling up or by levelling down, that is, by raising the Catholic University to the position of Trinity College, or by disestablishing and disendowing Trinity College. The evil precedent of the Act disestablishing the Anglican Church in Ireland, will, it is hoped, be eschewed.

following in some respects the measure of Mr. Gladstone of 1873, but making a marked improvement on it, would aim at establishing and endowing a National University for all Irishmen, which should have a power to confer degrees, in common with the Royal University now existing, and should have an ample professional staff; it should have its examinations for degrees and for other honours. The governing body of this University should be composed of the heads of the colleges affiliated to it—the element of the Castle being excluded, according at least to the best authorities—and Trinity College should not be deprived of any part of its revenues, as it was to be under the Bill of 1873. Two of the Queen's Colleges probably should be suppressed; but the College of Belfast, which has been successful, should probably be made a Presbyterian college, at least in the main; the endowments it would receive should be, doubtless, increased. High Catholic education should be provided for in this way: The Catholic University should be established and endowed, and placed reasonably on a level with Trinity College, and perhaps other Catholic colleges also; but, in consideration of this assistance from the State, a lay element should be introduced into the Catholic University governing body; this should not be composed wholly of Catholic clergymen; and the teaching body should be composed of men, chosen without regard to religious distinctions, but so constituted that a majority should be Catholics, and that Catholic education should be predominant. Other Catholic colleges might be connected with this institution; and Trinity College, the Catholic University, and the Belfast and all other colleges, should be subordinate to the National University in this sense; their students should be obliged to resort to it, or to the Royal University if they preferred it, in order to pass examinations, and to obtain degrees or other honours, there being thus two Universities of different types in Ireland. Education in all the affiliated colleges

should be perfectly free, that is, left to the arrangements made by their governing bodies; but a certain standard of proficiency should exist, which, however, the tests of University examinations would probably secure.

An Irish National University, could it be founded on these lines, would present many attractive features, would realise, indeed, a noble ideal. It would preserve Trinity College as a great place of learning, would give Presbyterian Ireland a college practically its own, and ought to satisfy the legitimate demands of Catholic Ireland. That its dependent colleges should compete with each other for its degrees and honours, and be friendly rivals in the splendid race of learning, would also be an immense advantage; and the Royal University would, doubtless, suffice for students too poor to enter the dependent colleges, and yet aspiring to pass examinations and to obtain degrees. But could a National University of this type be set up in Ireland with a prospect that it would succeed or flourish? Its governing body would be formed of the heads of the colleges connected with it; these would be mainly composed of Catholic and Protestant divines: could these, in the existing state of Ireland, agree as to the University course that ought to be adopted? Suppose that Archbishop Walsh and Dr. Salmon, the venerable provost of Trinity College, were together members of this supreme board. Would the first approve of Locke's Essay on the Human Understanding as a subject of examination in the University schools? Would the second approve of Bellarmine and even of Bossuet? Dissension, I fear, would be the inevitable result; and in that case 'the Castle' would certainly try to gain authority over the governing body, and to place on it nominees of its own, in my judgment, an exceedingly mischievous thing. Very probably, too, the State, in the long run, would deprive Trinity College of some of its revenues, on different pleas that could be plausibly urged; to this there would be the

gravest objections. And how could moral philosophy, metaphysics, and modern history, nay, even physical science itself, be made parts of University studies? How could Protestants and Catholics be examined in them in common? Would it not be necessary to exclude them from University teaching, as in the case of Mr. Gladstone's ill-starred measure—to close the University to the best works of the intellect of man, to deprive it of the most fruitful branches of learning? I fear the idea of a National University, as affairs now stand in Ireland, is not likely to become a reality with results that could be deemed hopeful. No doubt the Royal University does, to some extent, have examinations on these debateable subjects; but they occupy a very small place in its teaching; and in a National University this ought not to be the case.

A National University would not be founded in Ireland under the second project. Trinity College would remain completely intact; it would retain its present governing body, its privileges, and its power of conferring degrees. The Queen's Colleges—that of Galway being probably suppressed, and its funds transferred to the College of Belfast—and the Royal University would continue unchanged; the students of the Queen's Colleges would probably seek degrees from the Royal University as they do at present. But the Catholic University should be established and endowed, and placed on the same level as Trinity College, as far as this could be effected by law; the charge of the endowment would not be great—it would be perhaps £100,000 for buildings, and perhaps £40,000 a year for other purposes; but the students, and those of other colleges to be connected with it, would not be numerous, at least for years; it should, of course, have the power of conferring honours and degrees. In return for these advantages, the State should have a right to insist that its governing body should be in part laymen—the Irish Catholic bishops have already agreed to this;

and the State ought, also, to have a right to require that the secular education it should afford should be good, a security which could fully, if indirectly, be obtained. The advantages of this scheme, it is obvious, are that it would get rid of the difficulties inseparable from a National University in Ireland; it would preserve Trinity College exactly as it is, an enormous gain for that great place of learning; it would interfere as little as possible with things as they are; and it would do all that Catholic Ireland could reasonably demand. It is understood that a scheme of this description has the approval of the authorities of Trinity College, and of their distinguished representative, Mr. Lecky; their opinions are of the very greatest weight. The only real objection made to this plan is one made by characteristic prejudice: the education, in the Catholic University, it is said, would be bad, and its degrees would be of no value. In the face of the success of Catholic University students at the Royal University examinations, the first assertion has been proved to be false; and besides, this is the affair of the students and their parents alone. As to the inferiority of the Catholic University degrees, there is no reason to believe that this would exist; these degrees, moreover, would have to compete with those of the Royal University and of Trinity College; if they were really inferior, this would soon be found out, and the Catholic University would have to increase their value. This is the true security the State and the public would possess.

A few 'Present Irish Questions' remain, on which I may offer passing remarks. Ireland is essentially a poor country; her middle class is comparatively very weak; her trade and manufactures are small; the greater part of the community is a Celtic race. It has long been contended by well-informed Irishmen that many undertakings, which, in Great Britain, have properly been left to private enterprise, ought, in Ireland, to be carried out by the State,

as for centuries has been the case in France, a Celtic land, as was largely the case in Ireland under her extinct Parliament. This observation especially applies to the Irish railway system. As long ago as 1836, Thomas Drummond, the Under Secretary of well-known renown, strongly recommended that Irish railways should be laid out, managed, and controlled by the Government; but this was inconsistent with English ideas; the Irish railways were abandoned to private companies. The results have been very far from fortunate; many of the lines have been badly designed; the Irish railway fares are a great deal too high; too numerous boards of directors are a heavy charge; railway communication, in a word, in Ireland is of an inferior kind, and much too costly in a backward and poor country. Not indeed that the State has not made large advances to Irish railway companies, some of these on terms very unjust to ratepayers; but the system is faulty and ill-developed; a reform in this direction is greatly wanted.\* As Drummond insisted, the State, even now, ought to buy up and direct the Irish railways; but this is only a part of what it ought to do in this province. The material condition of Ireland is not prosperous; her main river basins require drainage; her whole arterial drainage is in a bad state, and has suffered much from the legislation of 1881, and from the policy of so-called 'land purchase,' for ordinary Irish tenants will not keep it up, and their landlords cannot now be expected to do so; these works must be undertaken by the State, or assuredly they will not be undertaken at all. Mr. Arthur Balfour has done something in this direction by the encouragement of light railways in remote parts of Ireland, and by the foundation of the 'Congested Districts Board,' an institution that has had excellent results. But this is only the fringe of the subject; an enormous amount of work remains to be done; and this,

\* See on this subject Mr. Lough's 'England's Wealth, Ireland's Poverty,' pp. 88-94.

in the circumstances of Ireland, can only be done by the Government.

In a book which has attracted some attention—'Ireland, 1798-1898'—I wrote these words nearly four years ago: 'An Irishman, Wolseley, an Irishman, Roberts, are the foremost of living British soldiers; but there are no Irish Guards, and few Irishmen in our artillery; we see here a want of tact and of sympathy.' Time, in this respect, has suddenly brought its changes; has again illustrated the genius of the Irishman in war, and, in some measure, has removed a reproach from England. It is true that the conspiracy, which still exists in Ireland, did all that it could to prevent Irishmen from taking part in the contest in South Africa, and that even a petty Irish contingent appeared in the ranks of the Boers. But Lord Wolseley had at least a great share in fitting out the largest expedition which has ever left our shores to fight an enemy at a distance of six thousand miles—no other power could do anything of the kind; and without disparaging our other generals, the presence of a superior mind was at once seen when Lord Roberts was given the supreme command in our army. And the Irish soldiery who fought in the campaigns of 1899-1900 were true to the noble traditions of their race; they were in the forefront of many a bloody conflict; and now that a regiment of Irish Guards has been at last embodied—a tardy acknowledgment of Irish military worth—England may rest assured that these men will rival the famous Irish Brigade of another age, 'ever and everywhere true' to the Bourbon lilies, and conspicuous in the service of France on many a field of renown. I may add a word on another subject, in which Ireland perhaps has a just claim on England. The descendants of the chiefs, who, in Scotland, clung to the cause of the Stuarts, have, for the most part, regained their forfeited lands and honours; no such reparation has been made to the descendants of Irish nobles and



princes, who supported the Stuarts in the nobler cause of their country. The representative of the last of the Celtic kings of Ireland—a man of large possessions and of unquestionable parts—has no place on the roll of the peerage; the sons of ennobled Cromwellian troopers and tradesmen have precedence at Court over the sons of the most illustrious Milesian Houses. This is not a mere trifle as may carelessly be said; it tends to revive memories that it were better to forget. Can nothing be done to make a graceful concession, which would touch many an Irish heart, and would go some way to promote a spirit of loyalty and hope in Ireland, which it should be a great object of statesmanship to create and foster?

If the picture I have drawn of Ireland is correct in outline, there is much of evil omen in her present condition. The ancient divisions of race and faith, the most distinctive feature in her social structure, are at least as deeply marked as they have been for a century; bad legislation has made them deeper and wider. Catholic Ireland remains disaffected to British rule, despite efforts of conciliation and concessions that cannot be justified; no class in the community is completely satisfied; discontent rankles in the hearts of the landed gentry. The Union, indeed, has been successfully maintained; the frightful agrarian disorder of 1881-89 no longer exists. But the Union is not permanently assured as long as the Liberal party and eighty Irish members demand Home Rule, and the over-representation of Ireland continues; the conspiracy of the Land and the National Leagues has revived in that of the United Irish League; and this seeks to compass the ends of its prototypes by obstruction in Parliament and detestable socialistic tyranny. And the frame of Irish society has been well-nigh shattered; ruins have been made, nothing solid has been put in their place. An aristocracy, long waning, has been practically destroyed, and can no longer be a support of the State; the

bureaucracy of the Castle reigns in its stead ; but this is essentially a weak Government ; it can maintain order, but has no hold on the people ; the Irish democracy, to which power has been transferred, regards it with a dislike and a contempt it does not try to conceal. The country has made hardly any progress of late years ; if some improvement in the state of the middle classes appears, agriculture, its leading industry, has perceptibly declined. In by far the most important of Irish social relations, those connected with the land, a revolution has taken place ; a huge if a veiled confiscation has gone on ; the landed gentry have been shamefully wronged ; the occupiers of the soil have been most unduly favoured ; yet both classes declare they have been ill-treated, notably the last. And the Irish land system has been turned upside down, with consequences disastrous and far-reaching ; the landlord has been cut off from his estate ; the tenant has been encouraged in thriftlessness and waste by law ; the land has been bound in a ruinous mortmain, like that which existed under the penal code, and subjected to demoralising litigation, breeding a war of class ; capital and fruitful enterprise turn away from it. And, at the same time, in order to lessen these evils, recourse has been had to remedies that are perhaps worse ; the system of so-called 'land purchase' has been devised ; the result has been to create a class of peasant owners reproducing the nearly extinct middleman, and, above all, to arouse a cry for the 'compulsory purchase' of the rented lands of Ireland, an act of wholesale spoliation unjust and disastrous alike. In the position of affairs we now see in Ireland, the stability of society has been rudely shaken ; the sense of the security of property has well-nigh disappeared ; the sanctity of contracts has no respect ; the pillars on which order and prosperity rest have been injured ; violent revolution has been arrested, indeed, but revolutionary and socialistic ideas spread far and wide. And will any impartial inquirer deny that

these untoward results may be largely ascribed to the faulty legislation of late years, and to a system of administration shifty and feeble? And what judgment is to be passed on the thoughtless optimism too common in opinion with respect to Ireland? Meanwhile, reforms imperatively required are not even attempted; they are passed over or postponed to some more convenient season. The time surely has come to look things in Ireland straight in the face; to see if statesmanship cannot do something really effective for her good. This end assuredly will not be attained by breaking up the Three Kingdoms under the guise of Home Rule, or by promoting a confiscation the worst Ireland has ever seen; still less will it be attained by the quackery in legislation and administration too apparent of late years; nor can trifling and foolish optimism blind the eyes of intelligent thinkers to facts. Ireland can only expect to make progress by ruling the community on the just and sound principles to which long experience has given its sanction; and this consummation can only be the slow result of time.

# APPENDIX

## THE IRISH GOVERNMENT BILL, 1886.

### ARRANGEMENT OF CLAUSES.

#### PART I.

##### *Legislative Authority.*

###### CLAUSE

1. Establishment of Irish Legislature.
2. Powers of Irish Legislature.
3. Exceptions from powers of Irish Legislature.
4. Restrictions on powers of Irish Legislature.
5. Prerogatives of Her Majesty as to Irish Legislative Body.
6. Duration of the Irish Legislative Body.

##### *Executive Authority.*

7. Constitution of the Executive Authority.
8. Use of Crown Lands by Irish Government.

##### *Constitution of Legislative Body.*

9. Constitution of Irish Legislative Body.
10. First order.
11. Second order.

##### *Finance.*

12. Taxes and separate Consolidated Fund.
13. Annual contributions from Ireland to Consolidated Fund of United Kingdom.
14. Collection and application of Customs and Excise duties in Ireland.
15. Charges on Irish Consolidated Fund.

## CLAUSE

- 16. Irish Church Fund.
- 17. Public loans.
- 18. Additional aid in case of war.
- 19. Money bills and votes.
- 20. Exchequer Division and revenue actions.

*Police.*

- 21. Police.

## PART II.

*Supplemental Provisions.*

## Powers of Her Majesty.

- 22. Powers over certain lands reserved to Her Majesty.

## Legislative Body.

- 23. Veto by first order of Legislative Body, how overruled.
- 24. Cesser of power of Ireland to return members of Parliament.

## Decision of Constitutional Questions.

- 25. Constitutional questions to be submitted to Judicial Committee.

## Lord-Lieutenant.

- 26. Office of Lord-Lieutenant.

## Judges and Civil Servants.

- 27. Judges to be removable only on address.
- 28. Provisions as to Judges and other persons having salaries charged on the Consolidated Fund.
- 29. As to persons holding Civil Service appointments.
- 30. Provision for existing pensions and superannuation allowances.

*Transitory Provisions.*

- 31. Transitory provisions in Schedule.

*Miscellaneous.*

- 32. Post office and savings banks.
- 33. Audit.

## CLAUSE

34. Application of parliamentary law.
35. Regulations for carrying Act into effect.
36. Saving of powers of House of Lords.
37. Saving of rights of Parliament.
38. Continuance of existing laws, courts, officers, etc.
39. Mode of alteration of Act.
40. Definitions.
41. Short title of Act.

## SCHEDULES.

*A Bill to amend the provision for the future Government of  
Ireland.* [A.D. 1886.

BE it enacted by the Queen's most excellent Majesty, by and with the advice and consent of the Lords Spiritual and Temporal, and Commons, in this present Parliament assembled, and by the authority of the same, as follows :

## PART I.

*Legislative Authority.*

1. On and after the appointed day there shall be established in Ireland a Legislature consisting of Her Majesty the Queen and the Irish Legislative Body. Establishment of Irish Legislature.

2. With the exceptions and subject to the restrictions in this Act mentioned, it shall be lawful for Her Majesty the Queen, by and with the advice of the Irish Legislative Body, to make laws for the peace, order, and good government of Ireland, and by any such law to alter and repeal any law in Ireland. Powers of Irish Legislature.

3. The Legislature of Ireland shall not make laws relating to the following matters, or any of them :— Exceptions from powers of Irish Legislature.

- (1) The status or dignity of the Crown, or the succession to the Crown or a Regency ;
- (2) The making of peace or war ;
- (3) The army, navy, militia, volunteers, or other military or naval forces, or the defence of the realm ;
- (4) Treaties and other relations with foreign States, or

the relations between the various parts of Her Majesty's dominions ;

- (5) Dignities or titles of honour ;
- (6) Prize or booty of war ;
- (7) Offences against the law of nations ; or offences committed in violation of any treaty made, or hereafter to be made, between Her Majesty and any foreign State ; or offences committed on the high seas ;
- (8) Treason, alienage, or naturalisation ;
- (9) Trade, navigation, or quarantine ;
- (10) The postal and telegraph service, except as hereafter in this Act mentioned with respect to the transmission of letters and telegrams in Ireland ;
- (11) Beacons, lighthouses, or sea-marks ;
- (12) The coinage ; the value of foreign money ; legal tender ; or weights and measures ; or
- (13) Copyright, patent rights, or other exclusive rights to the use or profits of any works or inventions.

Any law made in contravention of this section shall be void.

Restric-  
tions on  
powers of  
Irish Legis-  
lature.

**4.** The Irish Legislature shall not make any law—

- (1) Respecting the establishment or endowment of religion, or prohibiting the free exercise thereof ; or
- (2) Imposing any disability, or conferring any privilege, on account of religious belief ; or
- (3) Abrogating or derogating from the right to establish or maintain any place of denominational education or any denominational institution or charity ; or
- (4) Prejudicially affecting the right of any child to attend a school receiving public money without attending the religious instruction at that school ; or
- (5) Impairing, without either the leave of Her Majesty in Council first obtained on an address presented by the Legislative Body of Ireland, or the consent of the corporation interested, the rights, property, or privileges of any existing corporation incorporated by royal charter or local and general Act of Parliament ; or

(6) Imposing or relating to duties of customs and duties of excise, as defined by this Act, or either of such duties, or affecting any Act relating to such duties or either of them ; or

(7) Affecting this Act, except in so far as it is declared to be alterable by the Irish Legislature.

5.—Her Majesty the Queen shall have the same prerogatives with respect to summoning, proroguing, and dissolving the Irish Legislative Body as Her Majesty has with respect to summoning, proroguing, and dissolving the Imperial Parliament. Prerogatives of Her Majesty as to Irish Legislative Body.

6.—The Irish Legislative Body whenever summoned may have continuance for five years and no longer, to be reckoned from the day on which any such Legislative Body is appointed to meet. Duration of the Irish Legislative Body.

### *Executive Authority.*

7.—(1) The Executive Government of Ireland shall continue vested in Her Majesty, and shall be carried on by the Lord-Lieutenant on behalf of Her Majesty with the aid of such officers and such Council as to Her Majesty may from time to time seem fit. Constitution of the Executive Authority.

(2) Subject to any instructions which may from time to time be given by Her Majesty, the Lord-Lieutenant shall give or withhold the assent of Her Majesty to Bills passed by the Irish Legislative Body, and shall exercise the prerogatives of Her Majesty in respect of the summoning, proroguing, and dissolving of the Irish Legislative Body, and any prerogatives the exercise of which may be delegated to him by Her Majesty.

8.—Her Majesty may, by Order in Council, from time to time place under the control of the Irish Government, for the purposes of that Government, any such lands and buildings in Ireland as may be vested in or held in trust for Her Majesty. Use of Crown lands by Irish Government.

### *Constitution of Legislative Body.*

9.—(1) The Irish Legislative Body shall consist of a first and second order. Constitution of Irish Legislative Body.



(2) The two orders shall deliberate together, and shall vote together, except that, if any question arises in relation to legislation or to the Standing Orders or Rules of Procedure or to any other matter in that behalf in this Act specified, and such question is to be determined by vote, each order shall, if a majority of the members present of either order demand a separate vote, give their votes in like manner as if they were separate Legislative Bodies; and if the result of the voting of the two orders does not agree the question shall be resolved in the negative.

First order. 10.—(1) The first order of the Irish Legislative Body shall consist of one hundred and three members, of whom seventy-five shall be elective members and twenty-eight peerage members.

(2) Each elective member shall at the date of his election and during his period of membership be *bonâ fide* possessed of property which—

(a) If realty, or partly realty and partly personalty, yields two hundred pounds a year or upwards, free of all charges; or—

(b) If personalty yields the same income, or is of the capital value of four thousand pounds or upwards, free of all charges.

For the purpose of electing the elective members of the first order of the Legislative Body, Ireland shall be divided into the electoral districts specified in the First Schedule to this Act, and each such district shall return the number of members in that behalf specified in that Schedule.

(3) The elective members shall be elected by the registered electors of each electoral district, and for that purpose a register of electors shall be made annually.

(4) An elector in each electoral district shall be qualified as follows, that is to say, he shall be of full age, and not subject to any legal incapacity, and shall have been during the twelve months next preceding the *twentieth day of July* in any year the owner or occupier of some land or tenement within the district of a net annual value of twenty-five pounds or upwards.

(5) The term of office of an elective member shall be *ten years*.

(6) In every fifth year thirty-seven or thirty-eight of the elective members, as the case requires, shall retire from office, and their places shall be filled by election; the members to retire shall be those who have been members for the longest time without re-election.

(7) The offices of the peerage members shall be filled as follows, that is to say,—

(a) Each of the Irish peers who on the appointed day is one of the twenty-eight Irish representative peers, shall, on giving his written assent to the Lord-Lieutenant, become a peerage member of the first order of the Irish Legislative Body; and if at any time within *thirty years* after the appointed day any such peer vacates his office by death or resignation, the vacancy shall be filled by the election to that office by the Irish peers of one of their number in manner heretofore in use respecting the election of Irish representative peers, subject to adaptation as provided by this Act, and if the vacancy is not so filled within the proper time, it shall be filled by the election of an elective member.

(b) If any of the twenty-eight peers aforesaid does not within *one month* after the appointed day give such assent to be a peerage member of the first order, the vacancy so created shall be filled up as if he had assented and vacated his office by resignation.

(8) A peerage member shall be entitled to hold office during his life, or until the expiration of *thirty years* from the appointed day, whichever period is the shortest. At the expiration of such *thirty years* the offices of all the peerage members shall be vacated as if they were dead, and their places shall be filled by elective members qualified and elected in manner provided by this Act with respect to elective members of the first order, and such elective members may be distributed by the Irish Legislature among the electoral districts, so, however, that care shall be taken to give additional members to the most populous place.

(9) The offices of members of the first order shall not be vacated by the dissolution of the Legislative Body.

Second  
order.

(10) The provisions in the Second Schedule to this Act relating to members of the first order of the Legislative Body shall be of the same force as if they were enacted in the body of this Act.

11.—(1) Subject as in this section hereafter mentioned, the second order of the Legislative Body shall consist of two hundred and four members.

(2) The members of the second order shall be chosen by the existing constituencies of Ireland, two by each constituency, with the exception of the City of Cork, which shall be divided into two divisions in manner set forth in the Third Schedule to this Act, and two members shall be chosen by each of such divisions.

(3) Any person who, on the appointed day, is a member representing an existing Irish constituency in the House of Commons shall, on giving his written assent to the Lord-Lieutenant, become a member of the second order of the Irish Legislative Body as if he had been elected by the constituency which he was representing in the House of Commons. Each of the members for the City of Cork, on the said day, may elect for which of the divisions of that city he wishes to be deemed to have been elected.

(4) If any member does not give such written assent within *one month* after the appointed day, his place shall be filled by election in the same manner and at the same time as if he had assented and vacated his office by death.

(5) If the same person is elected to both orders, he shall, within *seven days* after the meeting of the Legislative Body, or if the Body is sitting at the time of the election, within *seven days* after the election, elect in which order he will serve, and his membership of the other order shall be void and be filled by a fresh election.

(6) Notwithstanding anything in this Act, it shall be lawful for the Legislature of Ireland at any time to pass an Act enabling the Royal University of Ireland to return not more than two members to the second order of the Irish Legislative Body in addition to the number of members above mentioned.

(7) Notwithstanding anything in this Act, it shall be lawful for the Irish Legislature, after the first dissolution of

the Legislative Body which occurs, to alter the constitution or election of the second order of that body, due regard being had in the distribution of members to the population of the constituencies; provided that no alteration shall be made in the number of such order.

### *Finance.*

12.—(1) For the purpose of providing for the public service of Ireland, the Irish Legislature may impose taxes, other than duties of Customs or Excise as defined by this Act, which duties shall continue to be imposed and levied by and under the direction of the Imperial Parliament only.

Taxes and  
separate  
Consoli-  
dated  
Fund.

(2) On and after the appointed day there shall be an Irish Consolidated Fund separate from the Consolidated Fund of the United Kingdom.

(3) All taxes imposed by the Legislature of Ireland and all other public revenues under the control of the Government of Ireland shall, subject to any provisions touching the disposal thereof contained in any Act passed in the present session respecting the sale and purchase of land in Ireland, be paid into the Irish Consolidated Fund, and be appropriated to the public service of Ireland according to law.

13.—(1) Subject to the provisions for the reduction or cesser thereof in this section mentioned, there shall be made on the part of Ireland to the Consolidated Fund of the United Kingdom the following annual contributions in every financial year; that is to say,—

Annual  
contribu-  
tions from  
Ireland to  
Consoli-  
dated Fund  
of United  
Kingdom.

(a) The sum of *one million four hundred and sixty-six thousand pounds* on account of the interest on and management of the Irish share of the National Debt :

(b) The sum of *one million six hundred and sixty-six thousand pounds* on account of the expenditure on the army and navy of the United Kingdom :

(c) The sum of *one hundred and ten thousand pounds* on account of the Imperial civil expenditure of the United Kingdom :

(d) The sum of *one million pounds* on account of the Royal Irish Constabulary and the Dublin Metropolitan Police.

(2) During the period of *thirty years* from this section taking effect the said annual contributions shall not be increased, but may be reduced or cease as hereinafter mentioned. After the expiration of the said *thirty years* the said contributions shall, save as otherwise provided by this section, continue until altered in manner provided with respect to the alteration of this Act.

(3) The Irish share of the National Debt shall be reckoned at *forty-eight million pounds* Bank annuities, and there shall be paid in every financial year on behalf of Ireland to the Commissioners for the Reduction of the National Debt an annual sum of *three hundred and sixty thousand pounds*, and the permanent annual charge for the National Debt on the Consolidated Fund of the United Kingdom shall be reduced by that amount, and the said annual sum shall be applied by the said Commissioners as a sinking fund for the redemption of the National Debt, and the Irish share of the National Debt shall be reduced by the amount of the National Debt so redeemed, and the said annual contribution on account of the interest on and management of the Irish share of the National Debt shall from time to time be reduced by a sum equal to the interest upon the amount of the National Debt from time to time so redeemed, but that last-mentioned sum shall be paid annually to the Commissioners for the Reduction of the National Debt in addition to the above-mentioned annual sinking fund, and shall be so paid and be applied as if it were part of that sinking fund.

(4) As soon as an amount of the National Debt equal to the said Irish share thereof has been redeemed under the provisions of this section, the said annual contribution on account of the interest on and management of the Irish share of the National Debt, and the said annual sum for a sinking fund shall cease.

(5) If it appears to Her Majesty that the expenditure in respect of the army and navy of the United Kingdom, or in respect of Imperial Civil expenditure of the United

Kingdom, for any financial year has been less than *fifteen* times the amount of the contributions above named on account of the same matter, a sum equal to *one-fifteenth* part of the diminution shall be deducted from the current annual contribution for the same matter.

(6) The sum paid from time to time by the Commissioners of Her Majesty's Woods, Forests, and Land Revenues to the Consolidated Fund of the United Kingdom on account of the hereditary revenues of the Crown in Ireland shall be credited to the Irish Government, and go in reduction of the said annual contribution payable on account of the Imperial Civil expenditure of the United Kingdom, but shall not be taken into account in calculating whether such diminution as above mentioned has or has not taken place in such expenditure.

(7) If it appears to Her Majesty that the expenditure in respect of the Royal Irish Constabulary and the Dublin Metropolitan Police for any financial year has been less than the contribution above-named on account of such constabulary and police, the current contribution shall be diminished by the amount of such difference.

(8) This section shall take effect from and after the *thirty-first day of March, one thousand eight hundred and eighty-seven*.

14.—(1) On and after such day as the Treasury may direct all moneys from time to time collected in Ireland on account of the duties of Customs or the duties of Excise as defined by this Act shall, under such regulations as the Treasury from time to time make, be carried to a separate account (in this Act referred to as the Customs and Excise account) and applied in the payment of the following sums in priority as mentioned in this section; that is to say,—

Collection and application of Customs and Excise duties in Ireland.

First, of such sum as is from time to time directed by the Treasury in respect of the costs, charges, and expenses of and incident to the collection and management of the said duties in Ireland not exceeding four per cent. of the amount collected there;

Secondly, of the annual contributions required by this Act to be made to the Consolidated Fund of the United Kingdom;

Thirdly, of the annual sums required by this Act to be paid to the Commissioners for the Reduction of the National Debt ;

Fourthly, of all sums by this Act declared to be payable out of the moneys carried to the Customs and Excise account ;

Fifthly, of all sums due to the Consolidated Fund of the United Kingdom for interest or sinking fund, in respect of any loans made by the issue of bank annuities or otherwise to the Government of Ireland under any Act passed in the present session relating to the purchase and sale of land in Ireland, so far as such sums are not defrayed out of the moneys received under such Act.

(2) So much of the moneys carried to a separate account under this section as the Treasury consider are not, and are not likely to be, required to meet the above-mentioned payments, shall from time to time be paid over and applied as part of the public revenues under the control of the Irish Government.

Charges on  
Irish Con-  
solidated  
Fund.

15.—(1) There shall be charged on the Irish Consolidated Fund in priority as mentioned in this section :—

First, such portion of the sums directed by this Act to be paid out of the moneys carried to the Customs and Excise account in priority to any payment for the public revenues of Ireland, as those moneys are insufficient to pay ;

Secondly, all sums due in respect of any debt incurred by the Government of Ireland, whether for interest, management, or sinking fund ;

Thirdly, all sums which at the passing of this Act are charged on the Consolidated Fund of the United Kingdom in respect of Irish services other than the salary of the Lord-Lieutenant ;

Fourthly, the salaries of all judges of the Supreme Court of Judicature or other Superior Court in Ireland, or of any County or other like Court, who are appointed after the passing of this Act, and the pensions of such judges ;

Fifthly, any other sums charged by this Act on the Irish Consolidated Fund.

(2) It shall be the duty of the Legislature of Ireland to impose all such taxes, duties, or imposts as will raise a sufficient revenue to meet all sums charged for the time being on the Irish Consolidated Fund.

16.—(1) Until all charges which are payable out of the Church property in Ireland, and are guaranteed by the Treasury, have been fully paid, the Irish Land Commission shall continue as heretofore to exist, with such Commissioners and officers receiving such salaries as the Treasury may from time to time appoint, and to administer the Church property and apply the income and other moneys receivable therefrom; and so much of the salaries of such Commissioners and officers and expenses of the office as is not paid out of the Church property shall be paid out of moneys carried to the Customs and Excise account under this Act, and if these moneys are insufficient, out of the Consolidated Fund of Ireland, and if not so paid, shall be paid out of the moneys provided by Parliament. Provided as follows:—

(a) All charges on the Church property for which a guarantee has been given by the Treasury before the passing of this Act shall, so far as they are not paid out of such property, be paid out of the moneys carried to the Customs and Excise account under this Act, and if such moneys are insufficient, the Consolidated Fund of Ireland, without prejudice nevertheless to the guarantee of the Treasury;

(b) All charges on the Church property, for which no guarantee has been given by the Treasury before the passing of this Act shall be charged on the Consolidated Fund of Ireland, but shall not be guaranteed by the Treasury nor charged on the Consolidated Fund of the United Kingdom.

(2) Subject to any existing charges on the Church property, such property shall belong to the Irish Government and any portion of the annual revenue thereof which the Treasury, on the application of the Irish Government, certify at the end of any financial year not to be required for meeting charges, shall be paid over and applied as part



of the public revenues under the control of the Irish Government.

(3) As soon as all charges on the Church property guaranteed by the Treasury have been paid, such property may be managed and administered, and subject to existing charges thereon disposed of, and the income or proceeds thereof applied, in such manner as the Irish Legislature may from time to time direct.

(4) 'Church property' in this section means all property accruing under the Irish Church Act, 1869, and transferred to the Irish Land Commission by the Irish Church Act 44 & 45 Vict. c. 71. Amendment Act, 1881.

Public  
loans.

17.—(1) All sums due for principal or interest to the Public Works Loan Commissioners or to the Commissioners of Public Works in Ireland in respect of existing loans advanced on any security in Ireland shall on and after the appointed day be due to the Government of Ireland instead of the said Commissioners, and such body of persons as the Government of Ireland may appoint for the purpose shall have all the powers of the said Commissioners or their secretary for enforcing payment of such sums, and all securities for such sums given to such Commissioners or their secretary shall have effect as if the said body were therein substituted for those Commissioners or their secretary.

(2) For the repayment of the said loans to the Consolidated Fund of the United Kingdom, the Irish Government shall pay annually into that Fund by half-yearly payments *on the first day of January and the first day of July*, or on such other days as may be agreed on, such instalments of the principal of the said loans as will discharge all the loans within *thirty years* from the appointed day, and shall also pay interest half-yearly on so much of the said principal as from time to time remains unpaid at the rate of *three per cent. per annum*, and such instalments of principal and interest shall be paid out of the moneys carried to the Customs and Excise account under this Act, and if those are insufficient, out of the Consolidated Fund of Ireland.

Additional  
aid in case  
of war.

18. If Her Majesty declares that a state of war exists and is pleased to signify such declaration to the Irish

Legislative Body by speech or message, it shall be lawful for the Irish Legislature to appropriate a further sum out of the Consolidated Fund of Ireland in aid of the army or navy, or other measures which Her Majesty may take for the prosecution of the war and defence of the realm, and to provide and raise money for that purpose; and all moneys so provided and raised, whether by loan, taxation, or otherwise, shall be paid into the Consolidated Fund of the United Kingdom.

19.—(1) It shall not be lawful for the Irish Legislative Body to adopt or pass any vote, resolution, address, or Bill for the raising or appropriation for any purpose of any part of the public revenue of Ireland, or of any tax, duty, or impost, except in pursuance of a recommendation from Her Majesty signified through the Lord-Lieutenant in the session in which such vote, resolution, address, or Bill is proposed. Money bills and votes.

(2) Notwithstanding that the Irish Legislature is prohibited by this Act from making laws relating to certain subjects, that Legislature may, with the assent of Her Majesty in Council first obtained, appropriate any part of the Irish public revenue, or any tax, duty, or impost imposed by such Legislature, for the purpose of, or in connection with, such subjects. A

20.—(1) On and after the appointed day, the Exchequer Division of the High Court of Justice shall continue to be a Court of Exchequer for revenue purposes under this Act, and whenever any vacancy occurs in the office of any judge of such Exchequer Division, his successor shall be appointed by Her Majesty on the joint recommendation of the Lord-Lieutenant of Ireland and the Lord High Chancellor of Great Britain. Exchequer Division and revenue actions.

(2) The judges of such Exchequer Division appointed after the passing of this Act shall be removable only by Her Majesty on address from the two Houses of the Imperial Parliament, and shall receive the same salaries and pensions as those payable at the passing of this Act to the existing judges of such division, unless with the assent of Her Majesty in Council first obtained, the Irish Legislature alters such salaries or pensions, and such salaries and

pensions shall be paid out of the moneys carried to the Customs and Excise account in pursuance of this Act, and if the same are insufficient shall be paid out of the Irish Consolidated Fund, and if not so paid shall be paid out of the Consolidated Fund of the United Kingdom.

(3) An alteration of any rules relating to the procedure in such legal proceedings as are mentioned in this section shall not be made except with the approval of the Lord High Chancellor of Great Britain, and the sittings of the Exchequer Division and the judges thereof shall be regulated with the like approval.

(4) All legal proceedings instituted in Ireland by or against the Commissioners or any officers of Customs or Excise, or the Treasury, shall, if so required by any party in such proceedings, be heard and determined before the judges of such Exchequer Division, or some or one of them, and any appeal from the decision in any such legal proceeding, if by a judge, shall lie to the said division, and if by the Exchequer Division, shall lie to the House of Lords, and not to any other tribunal; and if it is made to appear to such judges, or any of them, that any decree or judgment in any such proceeding as aforesaid, has not been duly enforced by the sheriff or other officer whose duty it is to enforce the same, such judges or judge shall appoint some officer to enforce such judgment or decree; and it shall be the duty of such officer to take proper steps to enforce the same, and for that purpose such officer and all persons employed by him shall be entitled to the same immunities, powers, and privileges as are by law conferred on a sheriff and his officers.

(5) All sums recovered in respect of duties of Customs and Excise, or under any Act relating thereto, or by an officer of Customs or Excise, shall, notwithstanding anything in any other Act, be paid to the Treasury, and carried to the Customs and Excise account under this Act.

### *Police.*

Police.

**21.**—The following regulations shall be made with respect to police in Ireland :—

- (a) The Dublin Metropolitan Police shall continue and be subject as heretofore to the control of the Lord-Lieutenant as representing Her Majesty for a period of *two years* from the passing of this Act, and thereafter until any alteration is made by Act of the Legislature of Ireland, but such Act shall provide for the proper saving of all then existing interests, whether as regards pay, pensions, superannuation allowances, or otherwise.
- (b) The Royal Irish Constabulary shall, while that force subsists, continue and be subject as heretofore to the control of the Lord-Lieutenant as representing Her Majesty.
- (c) The Irish Legislature may provide for the establishment and maintenance of a police force in counties and boroughs in Ireland under the control of local authorities, and arrangements may be made between the Treasury and the Irish Government for the establishment and maintenance of police reserves.

## PART II.

*Supplemental Provisions.*

## Powers of Her Majesty.

22.—On and after the appointed day there shall be reserved to Her Majesty—

- (1) The power of erecting forts, magazines, arsenals, dockyards, and other buildings for military or naval purposes ;
- (2) The power of taking waste land, and, on making due compensation, any other land for the purpose of erecting such forts, magazines, arsenals, dockyards, or other buildings as aforesaid, and for any other military or naval purpose, or the defence of the realm.

Power over  
certain  
lands re-  
served to  
Her  
Majesty.

## Legislative Body.

Veto by first order of Legislative Body, how overruled.

**23.**—If a Bill or any provision of a Bill is lost by disagreement between the two orders of the Legislative Body, and after a period ending with a dissolution of the Legislative Body, or the period of *three years*, whichever period is longest, such Bill, or a Bill containing the said provision, is again considered by the Legislative Body, and such Bill or provision is adopted by the second order and negatived by the first order, the same shall be submitted to the whole Legislative Body, both orders of which shall vote together on the Bill or provision, and the same shall be adopted or rejected according to the decision of the majority of the members so voting together.

Cesser of power of Ireland to return members to Parliament.

**24.**—On and after the appointed day Ireland shall cease, except in the event hereafter in this Act mentioned, to return representative peers to the House of Lords or members to the House of Commons, and the persons who on the said day are such representative peers and members shall cease as such to be members of the House of Lords and House of Commons respectively.

## Decision of Constitutional Questions.

Constitutional questions to be submitted to Judicial Committee.

**25.** Questions arising as to the powers conferred on the Legislature of Ireland under this Act shall be determined as follows :—

- (a) If any such question arises on any Bill passed by the Legislative Body, the Lord-Lieutenant may refer such question to Her Majesty in Council ;
- (b) If, in the course of any action or other legal proceeding, such question arises on any Act of the Irish Legislature, any party to such action or other legal proceeding may, subject to the rules in this section mentioned, appeal from a decision on such question to Her Majesty in Council ;
- (c) If any such question arises otherwise than as aforesaid in any Act of the Irish Legislature, the Lord-Lieutenant or one of Her Majesty's principal Secretaries of State may refer such question to Her Majesty in Council ;

- (d) A question referred or appeal brought under this section to Her Majesty in Council shall be referred for the consideration of the Judicial Committee of the Privy Council ;
- (e) The decision of Her Majesty in Council on any question referred or appeal brought under this section shall be final, and a Bill which may be so decided to be, or contain a provision, in excess of the powers of the Irish Legislature shall not be assented to by the Lord-Lieutenant ; and a provision of any Act which is so decided to be in excess of the powers of the Irish Legislature shall be void ;
- (f) There shall be added to the Judicial Committee when sitting for the purpose of considering questions under this section, such members of Her Majesty's Privy Council, being or having been Irish judges, as to Her Majesty may seem meet ;
- (g) Her Majesty may, by Order in Council from time to time, make rules as to the cases and mode in which and conditions under which, in pursuance of this section, questions may be referred and appeals brought to Her Majesty in Council, and as to the consideration thereof by the Judicial Committee of the Privy Council, and any rules so made shall be of the same force as if they were enacted in this Act ;
- (h) An appeal shall not lie to the House of Lords in respect of any question in respect of which an appeal can be had to Her Majesty in Council in pursuance of this section.

#### Lord-Lieutenant.

26.—(1) Notwithstanding anything to the contrary contained in any Act of Parliament, every subject of Her Majesty shall be eligible to hold and enjoy the office of Lord-Lieutenant of Ireland, without reference to his religious belief.

(2) The salary of the Lord-Lieutenant shall continue to

Office of  
Lord-Lieu-  
tenant.

be charged on the Consolidated Fund of the United Kingdom, and the expenses of his household and establishment shall continue to be defrayed out of moneys to be provided by Parliament.

(3) All existing powers vested by Act of Parliament or otherwise in the Chief Secretary for Ireland may, if no such officer is appointed, be exercised by the Lord-Lieutenant until other provision is made by Act of the Irish Legislature.

(4) The Legislature of Ireland shall not pass any Act relating to the office or functions of the Lord-Lieutenant of Ireland.

### Judges and Civil Servants.

Judges to  
be remov-  
able only  
on address.

**27.** A judge of the Supreme Court of Judicature or other Superior Court of Ireland, or of any County Court or other Court with a like jurisdiction in Ireland, appointed after the passing of this Act, shall not be removed from his office except in pursuance of an address to Her Majesty from both orders of the Legislative Body voting separately, nor shall his salary be diminished or right to pension altered during his continuance in office.

Provisions  
as to  
judges and  
other per-  
sons having  
salaries  
charged on  
the Con-  
solidated  
Fund.

**28.—(1)** All persons who at the passing of this Act are judges of the Supreme Court of Judicature or County Court judges, or hold any other judicial position in Ireland shall, if they are removable at present on address to Her Majesty of both Houses of Parliament, continue to be removable only upon such address from both Houses of the Imperial Parliament, and if removable in any other manner shall continue to be removable in like manner as heretofore; and such persons, and also all persons at the passing of this Act in the permanent Civil Service of the Crown in Ireland whose salaries are charged on the Consolidated Fund of the United Kingdom, shall continue to hold office and to be entitled to the same salaries, pensions, and superannuation allowances as heretofore, and to be liable to perform the same or analogous duties as heretofore; and the salaries of such persons shall be paid out of the moneys carried to the Customs and Excise account under

this Act, or if these moneys are insufficient, out of the Irish Consolidated Fund, and if the same are not so paid shall continue charged on the Consolidated Fund of the United Kingdom.

(2) If any of these said persons retires from office with the approbation of Her Majesty before he has completed the period of service entitling him to a pension, it shall be lawful for Her Majesty, if she thinks fit, to grant to that person such pension, not exceeding the pension to which he would have been entitled if he had completed the said period of service, as to Her Majesty seems meet.

29.—(1) All persons not above provided for and at the passing of this Act serving in Ireland in the permanent Civil Service of the Crown shall continue to hold their offices and receive the same salaries, and to be entitled to the same gratuities and superannuation allowances as heretofore, and shall be liable to perform the same duties as heretofore or duties of similar rank, but any of such persons shall be entitled at the expiration of *two years* after the passing of this Act to retire from office, and at any time if required by the Irish Government shall retire from office, and on any such retirement shall be entitled to receive such payment as the Treasury may award to him in accordance with the provisions contained in the Fourth Schedule to this Act. As to persons holding Civil Service appointments.

(2) The amount of such payment shall be paid to him out of the moneys carried to the Customs and Excise account under this Act, or, if those moneys are insufficient, out of the Irish Consolidated Fund, and so far as the same are not so paid shall be paid out of moneys provided by Parliament.

(3) The Pensions Commutation Act, 1871, shall apply to all persons who, having retired from office, are entitled to any annual payment under this section in like manner as if they had retired in consequence of the abolition of their offices. 34 & 35 Vict. c. 36.

(4) This section shall not apply to persons who are retained in the service of the Imperial Government.

30. Where before the passing of this Act any pension or superannuation allowance has been granted to any Provision for existing pensions



and super-  
annuation  
allowances.

person on account of service as a judge of the Supreme Court of Judicature of Ireland, or of any Court consolidated into that Court, or as a County Court judge, or in any other judicial position, or on account of service in the permanent Civil Service of the Crown in Ireland otherwise than in some office, the holder of which is, after the passing of this Act, retained in the service of the Imperial Government, such pension or allowance, whether payable out of the Consolidated Fund or out of moneys provided by Parliament, shall continue to be paid to such person, and shall be so paid out of the moneys carried to the Customs and Excise account under this Act, or, if such moneys are insufficient, out of the Irish Consolidated Fund, and so far as the same is not so paid, shall be paid as heretofore out of the Consolidated Fund of the United Kingdom or moneys provided by Parliament.

#### *Transitory Provisions.*

Transitory  
provisions  
in  
Schedule.

**31.** The provisions contained in the Fifth Schedule to this Act relating to the mode in which arrangements are to be made for setting in motion the Irish Legislative Body and Government, and for the transfer to the Irish Government of the powers and duties to be transferred to them under this Act, or for otherwise bringing this Act into operation, shall be of the same effect as if they were enacted in the body of this Act.

#### *Miscellaneous.*

Post office  
and savings  
banks.

**32.** Whenever an Act of the Legislature of Ireland has provided for carrying on the postal and telegraphic service with respect to the transmission of letters and telegrams in Ireland, and the post office and other savings banks in Ireland, and for protecting the officers then in such service, and the existing depositors in such post-office savings banks, the Treasury shall make arrangements for the transfer of the said service and banks, in accordance with the said Act, and shall give public notice of the transfer, and shall pay all depositors in such post-office savings bank who request payment within *six months* after the date fixed for

such transfer, and after the expiration of such *six months* the said depositors shall cease to have any claim against the Postmaster-General or the Consolidated Fund of the United Kingdom, but shall have the like claim against the Consolidated Fund of Ireland, and the Treasury shall cause to be transferred in accordance with the said Act the securities representing the sums due to the said depositors in post-office savings banks, and the securities held for other savings banks.

**33.** Save as otherwise provided by the Irish Legis- Audit.  
lature—

(a) The existing law relating to the Exchequer and the Consolidated Fund of the United Kingdom shall apply to the Irish Exchequer and Consolidated Fund, and an officer shall from time to time be appointed by the Lord-Lieutenant to fill the office of the Comptroller-General of the receipt and issue of Her Majesty's Exchequer and Auditor-General of public accounts so far as respects Ireland; and

(b) The accounts of the Irish Consolidated Fund shall be audited as appropriation accounts in manner provided by the Exchequer and Audit Departments Act, 1866, by or under the direction of the holder of such office. 29 & 30  
Vict. c. 39.

**34.—**(1) The privileges, immunities, and powers to be held, enjoyed, and exercised by the Irish Legislative Body, and the members thereof, shall be such as are from time to time defined by Act of the Irish Legislature, but so that the same shall never exceed those at the passing of this Act, held, enjoyed, and exercised by the House of Commons, and by the members thereof. Applica-  
tion of par-  
liamentary  
law.

(2) Subject as in this Act mentioned, all existing laws and customs relating to the members of the House of Commons and their election, including the enactments respecting the questioning of elections, corrupt and illegal practices, and registration of electors, shall, so far as applicable, extend to elective members of the first order and to members of the second order of the Irish Legislative Body. Provided that,—

- (a) The law relating to the offices of profit enumerated in Schedule H to the Representation of the People Act, 1867, shall apply to such offices of profit in the Government of Ireland not exceeding ten, as the Legislature of Ireland may from time to time direct ;
- (b) After the first dissolution of the Legislative Body, the Legislature of Ireland may, subject to the restrictions in this Act mentioned, alter the laws and customs in this section mentioned.

Regulations for carrying Act into effect.

**35.**—(1) The Lord-Lieutenant of Ireland may make regulations for the following purposes :—

- (a) The summoning of the Legislative Body and the election of a Speaker, and such adaptation to the proceedings of the Legislative Body of the procedure of the House of Commons as appears to him expedient for facilitating the conduct of business by that body on their first meeting ;
- (b) The adaptation of any laws relating to the election of representative peers ;
- (c) The adaptation of any laws and customs relating to the House of Commons or the members thereof to the elective members of the first order and to members of the second order of the Legislative Body ; and
- (d) The mode of signifying their assent or election under this Act by representative peers or Irish members of the House of Commons as regards becoming members of the Irish Legislative Body in pursuance of this Act.

(2) Any regulations so made shall, in so far as they concern the procedure of the Legislative Body, be subject to alteration by Standing Orders of that Body, and so far as they concern other matters, be subject to alteration by the Legislature of Ireland, but shall, until alteration, have the same effect as if they were inserted in this Act.

Saving of powers of House of Lords.

**36.** Save as in this Act provided with respect to matters to be decided by Her Majesty in Council, nothing in this Act shall affect the appellate jurisdiction of the House of Lords in respect of actions and suits in Ireland, or the

jurisdiction of the House of Lords to determine the claims to Irish peerages.

37. Save as herein expressly provided, all matters in relation to which it is not competent for the Irish Legislative Body to make or repeal laws shall remain and be within the exclusive authority of the Imperial Parliament, whose power and authority in relation thereto, save as aforesaid, shall in no wise be diminished or restrained by anything herein contained.

Saving of rights of Parliament.

38.—(1) Except as otherwise provided by this Act, all existing laws in force in Ireland, and all existing courts of civil and criminal jurisdiction, and all existing legal commissions, powers, and authorities, and all existing officers, judicial, administrative, and ministerial, and all existing taxes, licence, and other duties, fees, and other receipts in Ireland shall continue as if this Act had not been passed; subject, nevertheless, to be repealed, abolished, or altered in manner and to the extent provided by this Act; provided that, subject to the provisions of this Act, such taxes, duties, fees, and other receipts, shall, after the appointed day, form part of the public revenues of Ireland.

Continuance of existing laws, courts, officers, etc.

(2) The Commissioners of Inland Revenue and Commissioners of Customs, and the officers of such Commissioners respectively, shall have the same powers in relation to any articles subject to any duty of excise or customs, manufactured, imported, kept for sale, or sold, and any premises where the same may be, and to any machinery, apparatus, vessels, utensils, or conveyance used in connection therewith, or the removal thereof, and in relation to the person manufacturing, importing, keeping for sale, selling, or having the custody or possession of the same as they would have had if this Act had not been passed.

39.—(1) On and after the appointed day this Act shall not, except such provisions thereof as are declared to be alterable by the Legislature of Ireland, be altered except—

Mode of alteration of Act.

(a) By Act of the Imperial Parliament and with the consent of the Irish Legislative Body testified by an address to Her Majesty, or

(b) By an Act of the Imperial Parliament, for the passing of which there shall be summoned to the House

of Lords the peerage members of the first order of the Irish Legislative Body, and if there are no such members then twenty-eight Irish representative peers elected by the Irish peers in manner heretofore in use, subject to adaptation as provided by this Act; and there shall be summoned to the House of Commons such one of the members of each constituency, or in the case of a constituency returning four members such two of those members, as the Legislative Body of Ireland may select, and such peers and members shall respectively be deemed, for the purpose of passing any such Act, to be members of the said Houses of Parliament respectively.

(2) For the purposes of this section, it shall be lawful for Her Majesty by Order in Council to make such provisions for summoning the said peers of Ireland to the House of Lords and the said members from Ireland to the House of Commons as to Her Majesty may seem necessary or proper, and any provisions contained in such Order in Council shall have the same effect as if they had been enacted by Parliament.

Defini-  
tions.

40. In this Act—

The expression 'the appointed day' shall mean such day after the *thirty-first day of March in the year one thousand eight hundred and eighty-seven* as may be determined by order of Her Majesty in Council.

The expression 'Lord-Lieutenant' includes the lords justices or any other chief governor or governors of Ireland for the time being.

The expression 'Her Majesty the Queen,' or 'Her Majesty in Council,' or 'the Queen,' includes the heirs and successors of Her Majesty the Queen.

The expression 'Treasury' means the Commissioners of Her Majesty's Treasury.

The expression 'Treaty' includes any convention or arrangement.

The expression 'existing' means existing at the passing of this Act.

The expression 'existing constituency' means any

county or borough, or division of a county or borough, or a University returning at the passing of this Act a member or members to serve in Parliament.

The expression 'duties of excise' does not include a duty received in respect of any licence whether for the sale of intoxicating liquors or otherwise.

The expression 'financial year' means the twelve months ending on the *thirty-first day of March*.

41. This Act may be cited for all purposes as the Irish Government Act, 1886. Short title of Act.

## SCHEDULES.

### FIRST SCHEDULE.

First order of the Irish Legislative Body.

Electoral Districts.	Number of Members.	• Rotation.

### SECOND SCHEDULE.

Provisions relating to the first order of the Irish Legislative Body.

### THIRD SCHEDULE.

Boundaries of divisions of the City of Cork for the purpose of returning members to the second order of the Legislative Body.

### FOURTH SCHEDULE.

Provisions as to superannuation allowances of persons in the Permanent Civil Service.

### FIFTH SCHEDULE.

Transitory provisions.

# THE IRISH GOVERNMENT BILL, 1893.

## ARRANGEMENT OF CLAUSES.

### PART I.

#### *Legislative Authority.*

##### CLAUSE

1. Establishment of Irish Legislature.
2. Powers of Irish Legislature.
3. Exceptions from powers of Irish Legislature.
4. Restrictions on powers of Irish Legislature.

#### *Executive Authority.*

5. Executive power in Ireland.

#### *Constitution of Legislature.*

6. Composition of Irish Legislative Council.
7. Composition of Irish Legislative Assembly.
8. Disagreement between two Houses, how settled.

#### *Irish Representation in House of Commons.*

9. Representation in Parliament of Irish counties and boroughs.

#### *Finance.*

10. As to separate Consolidated Fund and taxes.
11. Hereditary revenues and income tax.
12. Financial arrangements as between United Kingdom and Ireland.
13. Treasury Account (Ireland).
14. Charges on Irish Consolidated Fund.

## CLAUSE

15. Irish Church Fund.
16. Local loans.
17. Adaptation of Acts as to Local Taxation Accounts and Probate, etc., duties.
18. Money bills and votes.
19. Exchequer judges for revenue actions, election petitions, etc.

*Post Office, Postal Telegraphs, and Savings Banks.*

20. Transfer of post office and postal telegraphs.
21. Transfer of savings banks.

*Irish Appeals and Decision of Constitutional Questions.*

22. Irish appeals.
23. Special provision for decision of constitutional questions.

*Lord-Lieutenant and Crown Lands.*

24. Office of Lord-Lieutenant.
25. Use of Crown lands by Irish Government.

*Judges and Civil Servants.*

26. Tenure of future judges.
27. As to existing judges and other persons having salaries charged on the Consolidated Fund.
28. As to persons holding Civil Service appointments.
29. As to existing pensions and superannuation allowances.

*Police.*

30. As to police.

*Miscellaneous.*

31. Irish Exchequer Consolidated Fund and Audit.
32. Law applicable to both Houses of Irish Legislature.
33. Supplemental provisions as to powers of Irish Legislature.
34. Limitation on borrowing by local authorities.

*Transitory Provisions.*

35. Temporary restriction on powers of Irish Legislature and Executive.



## CLAUSE

36. Transitory provisions.
37. Continuance of existing laws, courts, officers, etc.
38. Appointed day.
39. Definitions.
40. Short title.

## SCHEDULES.

*A Bill to amend the provision for the Government of Ireland.*

[A.D. 1893.]

WHEREAS it is expedient that without impairing or restricting the supreme authority of Parliament, an Irish Legislature should be created for such purposes in Ireland as in this Act mentioned: Be it therefore enacted by the Queen's most excellent Majesty, by and with the advice and consent of the Lords Spiritual and Temporal, and Commons, in this present Parliament assembled, and by the authority of the same, as follows:—

## PART I.

*Legislative Authority.*

Establishment of Irish Legislature.

1. On and after the appointed day there shall be in Ireland a Legislature consisting of Her Majesty the Queen and of two Houses, the Legislative Council and the Legislative Assembly.

Powers of Irish Legislature.

2. With the exceptions and subject to the restrictions in this Act mentioned, there shall be granted to the Irish Legislature power to make laws for the peace, order, and good government of Ireland in respect of matters exclusively relating to Ireland or some part thereof.

Exceptions from powers of Irish Legislature.

3. The Irish Legislature shall not have power to make laws in respect of the following matters or any of them:—

- (1) The Crown, or the succession to the Crown, or a Regency; or the Lord-Lieutenant as representative of the Crown; or
- (2) The making of peace or war or matters arising from a state of war; or

- (3) Naval or military forces, or the defence of the realm ; or
- (4) Treaties and other relations with foreign States, or the relations between different parts of Her Majesty's dominions, or offences connected with such treaties or relations ; or
- (5) Dignities or titles of honour ; or
- (6) Treason, treason-felony, alienage or naturalisation ; or
- (7) Trade with any place out of Ireland ; or quarantine, or navigation (except as respects inland waters and local health or harbour regulations) ; or
- (8) Beacons, lighthouses, or sea-marks (except so far as they can consistently with any general Act of Parliament be constructed or maintained by a local harbour authority) ; or
- (9) Coinage ; legal tender ; or the standard of weights and measures ; or
- (10) Trade marks, merchandise 'marks,' copyright, or patent rights.

Any law made in contravention of this section shall be void.

4. The powers of the Irish Legislature shall not extend to the making of any law—
- (1) Respecting the establishment or endowment of religion, or prohibiting the free exercise thereof ; or
  - (2) Imposing any disability, or conferring any privilege, on account of religious belief ; or
  - (3) Abrogating or prejudicially affecting the right to establish or maintain any place of denominational education or any denominational institution or charity ; or
  - (4) Prejudicially affecting the right of any child to attend a school receiving public money, without attending the religious instruction at that school ; or
  - (5) Whereby any person may be deprived of life, liberty, or property without due process of law, or may be denied the equal protection of the laws, or whereby private property may be taken without just compensation ; or

Restrictions on powers of Irish Legislature.

- (6) Whereby any existing corporation incorporated by Royal Charter or by any local or general Act of Parliament (not being a corporation raising for public purposes taxes, rates, cess, dues, or tolls, or administering funds so raised) may, unless it consents, or the leave of Her Majesty is first obtained on address from the two Houses of the Irish Legislature, be deprived of its rights, privileges, or property without due process of law; or
- (7) Whereby any inhabitant of the United Kingdom may be deprived of equal rights as respects public sea fisheries.

Any law made in contravention of this section shall be void.

### *Executive Authority.*

Executive  
power in  
Ireland.

5.—(1) The executive power in Ireland shall continue vested in Her Majesty the Queen, and the Lord-Lieutenant, on behalf of Her Majesty, shall exercise any prerogatives or other executive power of the Queen the exercise of which may be delegated to him by Her Majesty, and shall, in Her Majesty's name, summon, prorogue, and dissolve the Irish Legislature.

(2) There shall be an Executive Committee of the Privy Council of Ireland to aid and advise in the government of Ireland, being of such numbers, and comprising persons holding such offices, as Her Majesty may think fit, or as may be directed by Irish Act.

(3) The Lord-Lieutenant shall, on the advice of the said Executive Committee, give or withhold the assent of Her Majesty to Bills passed by the two Houses of the Irish Legislature, subject nevertheless to any instructions given by Her Majesty in respect of any such Bill.

### *Constitution of Legislature.*

Composi-  
tion of Irish  
Legislative  
Council.

6.—(1) The Irish Legislative Council shall consist of *forty-eight* councillors.

(2) Each of the constituencies mentioned in the First

Schedule to this Act shall return the number of councillors named opposite thereto in that schedule.

(3) Every man shall be entitled to be registered as an elector, and when registered to vote at an election, of a councillor for a constituency, who owns or occupies any land or tenement in the constituency of a rateable value of more than *twenty* pounds, subject to the like conditions as a man is entitled at the passing of this Act to be registered and vote as a Parliamentary elector in respect of an ownership qualification, or of the qualification specified in section five of the Representation of the People Act, 1884, as the case may be: Provided that a man shall not be entitled to be registered, nor if registered to vote, at an election of a councillor in more than one constituency in the same year. <sup>48 & 49  
Vict. c. 3.</sup>

(4) The term of office of every councillor shall be *eight* years, and shall not be affected by a dissolution; and one *half* of the Councillors shall retire in every *fourth* year, and their seats shall be filled by a new election.

7.—(1) The Irish Legislative Assembly shall consist of *one hundred and three* members, returned by the existing parliamentary constituencies in Ireland, or the existing divisions thereof, and elected by the parliamentary electors for the time being in those constituencies or divisions. <sup>Composition of Irish  
Legislative  
Assembly.</sup>

(2) The Irish Legislative Assembly when summoned may, unless sooner dissolved, have continuance for *five* years from the day on which the summons directs it to meet and no longer.

(3) After *six* years from the passing of this Act, the Irish Legislature may alter the qualification of the electors, and the constituencies, and the distribution of the members among the constituencies, provided that in such distribution due regard is had to the population of the constituencies.

8. If a Bill, or any provision of a Bill, adopted by the Legislative Assembly is lost by the disagreement of the Legislative Council, and after a dissolution, or the period of *two years* from such disagreement, such Bill, or a Bill for enacting the said provision, is again adopted by the Legislative Assembly, and fails within three months <sup>Disagree-  
ment be-  
tween two  
Houses,  
how  
settled.</sup>

afterwards to be adopted by the Legislative Council, the same shall forthwith be submitted to the members of the two Houses deliberating and voting together thereon, and shall be adopted or rejected according to the decision of the majority of those members present and voting on the question.

*Irish Representation in House of Commons.*

Representation in Parliament of Irish counties and boroughs.

9. Unless and until Parliament otherwise determines, the following provisions shall have effect :—

(1) After the *appointed day* each of the constituencies named in the Second Schedule to this Act shall return to serve in Parliament the number of members named opposite thereto in that Schedule, and no more, and Dublin University shall cease to return any member.

(2) The existing divisions of the constituencies shall, save as provided in that Schedule, be abolished.

(3) An Irish representative peer in the House of Lords and a member of the House of Commons for an Irish constituency shall not be entitled to deliberate or vote on—

(a) Any Bill or motion in relation thereto, the operation of which Bill or motion is confined to Great Britain or some part thereof; or

(b) Any motion or resolution relating solely to some tax not raised or to be raised in Ireland; or

(c) Any vote or appropriation of money made exclusively for some service not mentioned in the Third Schedule to this Act; or

(d) Any motion or resolution exclusively affecting Great Britain, or some part thereof, or some local authority, or some person or thing therein; or

(e) Any motion or resolution incidental to any such motion or resolution, as either is last

mentioned, or relates solely to some tax not raised or to be raised in Ireland, or incidental to any such vote or appropriation of money as aforesaid.

- (4) Compliance with the provisions of this section shall not be questioned otherwise than in each House in manner provided by the House.
- (5) The election laws and the laws relating to the qualification of parliamentary electors shall not, so far as they relate to parliamentary elections, be altered by the Irish Legislature, but this enactment shall not prevent the Irish Legislature from dealing with any officers concerned with the issue of writs of election, and if any officers are so dealt with, it shall be lawful for Her Majesty by Order in Council to arrange for the issue of such writs, and the writs issued in pursuance of such Order shall be of the same effect as if issued in manner heretofore accustomed.

### *Finance.*

10.—(1) On and after the appointed day there shall be an Irish Exchequer and Consolidated Fund separate from those of the United Kingdom.

As to separate Consolidated Fund and taxes.

(2) The duties of Customs and Excise and the duties on postage shall be imposed by Act of Parliament, but subject to the provisions of this Act the Irish Legislature may, in order to provide for the public service of Ireland, impose any other taxes.

(3) Save as in this Act mentioned, all matters relating to the taxes in Ireland and the collection and management thereof shall be regulated by Irish Act, and the same shall be collected and managed by the Irish Government, and from part of the public revenues of Ireland: Provided that—

- (a) The duties of Customs shall be regulated, collected, managed, and paid into the Exchequer of the United Kingdom as heretofore; and
- (b) All prohibitions in connection with the duties of

Excise, and so far as regards articles sent out of Ireland, all matters relating to those duties, shall be regulated by Act of Parliament ; and

(c) The excise duties on articles consumed in Great Britain shall be paid in Great Britain, or to an officer of the Government of the United Kingdom.

(4) Save as in this Act mentioned, all the public revenues of Ireland shall be paid into the Irish Exchequer and form a Consolidated Fund, and be appropriated to the public service of Ireland by Irish Act.

(5) If the duties of Excise are increased above the rates in force on the *first day of March one thousand eight hundred and ninety-three* the net proceeds in Ireland of the duties in excess of the said rates shall be paid from the Irish Exchequer to the Exchequer of the United Kingdom.

(6) If the duties of Excise are reduced below the rates in force on the said day, and the net proceeds of such duties in Ireland are in consequence less than the net proceeds of the duties before the reduction, a sum equal to the deficiency shall, unless it is otherwise agreed between the Treasury and the Irish Government, be paid from the Exchequer of the United Kingdom to the Irish Exchequer.

Hereditary  
revenues  
and income  
tax.

11.—(1) The hereditary revenues of the Crown in Ireland which are managed by the Commissioners of Woods shall continue during the life of Her present Majesty to be managed and collected by those Commissioners, and the net amount payable by them to the Exchequer on account of those revenues, after deducting all expenses (but including an allowance for interest on such proceeds of the sale of those revenues as have not been re-invested in Ireland), shall be paid into the Treasury Account (Ireland) herein-after mentioned, for the benefit of the Irish Exchequer.

(2) A person shall not be required to pay income tax in Great Britain in respect of property situate or business carried on in Ireland, and a person shall not be required to pay income tax in Ireland in respect of property situate or business carried on in Great Britain.

(3) For the purpose of giving to Ireland the benefit of the difference between the income tax collected in Great Britain from British, Colonial, and foreign securities held

by residents in Ireland, and the income tax collected in Ireland from Irish securities held by residents in Great Britain, there shall be made to Ireland out of the income tax collected in Great Britain, an allowance of such amount as may be from time to time determined by the Treasury, in accordance with a minute of the Treasury, laid before Parliament before the appointed day, and such allowance shall be paid into the Treasury Account (Ireland) for the benefit of the Irish Exchequer.

(4) Provided that the provisions of this section with respect to income tax shall not apply to any excess of the rate of income tax in Great Britain above the rate in Ireland or of the rate of income tax in Ireland above the rate in Great Britain.

12.—(1) The duties of Customs contributed by Ireland and, save as provided by this Act, that portion of any public revenue of the United Kingdom to which Ireland may claim to be entitled, whether specified in the Third Schedule to this Act or not, shall be carried to the Consolidated Fund of the United Kingdom, as the contribution of Ireland to Imperial liabilities and expenditure as defined in that Schedule.

Financial  
arrange-  
ments as  
between  
United  
Kingdom  
and  
Ireland.

(2) The civil charges of the Government in Ireland shall, subject as in this Act mentioned, be borne after the appointed day by Ireland.

(3) After *fifteen* years from the passing of this Act the arrangements made by this Act for the contribution of Ireland to Imperial liabilities and expenditure, and otherwise for the financial relations between the United Kingdom and Ireland, may be revised in pursuance of an address to Her Majesty from the House of Commons, or from the Irish Legislative Assembly.

13.—(1) There shall be established under the direction of the Treasury an account (in this Act referred to as the Treasury Account (Ireland)).

Treasury  
Account  
(Ireland)

(2) There shall be paid into such account all sums payable from the Irish Exchequer to the Exchequer of the United Kingdom, or from the latter to the former Exchequer, and all sums directed to be paid into the account for the benefit of either of the said Exchequers.



(3) All sums which are payable from either of the said Exchequers to the other of them, or being payable out of one of the said Exchequers are repayable by the other Exchequer, shall in the first instance be payable out of the said account so far as the money standing on the account is sufficient; and for the purpose of meeting such sums the Treasury out of the Customs revenue collected in Ireland, and the Irish Government out of any of the public revenues in Ireland, may direct money to be paid to the Treasury Account (Ireland) instead of into the Exchequer.

(4) Any surplus standing on the account to the credit of either Exchequer, and not required for meeting payments, shall at convenient times be paid into that Exchequer, and where any sum so payable in to the Exchequer of the United Kingdom is required by law to be forthwith paid to the National Debt Commissioners, that sum may be paid to those Commissioners without being paid into the Exchequer.

(5) All sums payable by virtue of this Act out of the Consolidated Fund of the United Kingdom or of Ireland shall be payable from the Exchequer of the United Kingdom or of Ireland shall be payable from the Exchequer of the United Kingdom or Ireland, as the case may be, within the meaning of this Act, and all sums by this Act made payable from the Exchequer of the United Kingdom shall, if not otherwise paid, be charged on and paid out of the Consolidated Fund of the United Kingdom.

14.—(1) There shall be charged on the Irish Consolidated Fund in favour of the Exchequer of the United Kingdom as a first charge on that fund all sums which—

(a) Are payable to that Exchequer from the Irish Exchequer; or

(b) Are required to repay to the Exchequer of the United Kingdom sums issued to meet the dividends or sinking fund or guaranteed land stock under the Purchase of Land (Ireland) Act, 1891; or

(c) Otherwise have been or are required to be paid out of the Exchequer of the United Kingdom in consequence of the non-payment thereof out of the

Charges  
on Irish  
Consolidated  
Fund.

Exchequer of Ireland or otherwise by the Irish Government.

(2) If at any time the Controller and Auditor-General of the United Kingdom is satisfied that any such charge is due, he shall certify the amount of it, and the Treasury shall send such certificate to the Lord-Lieutenant, who shall thereupon by order, without any counter-signature, direct the payment of the amount from the Irish Exchequer to the Exchequer of the United Kingdom, and such order shall be duly obeyed by all persons, and until the amount is wholly paid no other payment shall be made out of the Irish Exchequer for any purpose whatever.

(3) There shall be charged on the Irish Consolidated Fund next after the foregoing charge—

(a) All sums, for dividends or sinking fund on guaranteed land stock under the Purchase of Land (Ireland) Act, 1891, which the Land Purchase Account and the Guarantee Fund under that Act are insufficient to pay; <sup>54 & 55  
Vict. c. 48.</sup>

(b) All sums due in respect of any debt incurred by the Government of Ireland, whether for interest management, or sinking fund;

(c) An annual sum of *five thousand pounds* for the expenses of the household and establishment of the Lord-Lieutenant;

(d) All existing charges on the Consolidated Fund of the United Kingdom in respect of Irish services other than the salary of the Lord-Lieutenant; and

(e) The salaries and pensions of all judges of the Supreme Court or other Superior Court in Ireland or of any County or other like Court, who are appointed after the passing of this Act, and are not the Exchequer judges hereafter mentioned.

(4) Until all charges created by this Act upon the Irish Consolidated Fund and for the time being due are paid, no money shall be issued from the Irish Exchequer for any other purpose whatever.

15.—(1) All existing charges on the Church property in Ireland—that is to say, all property accruing under the Irish Church Act, 1869, and transferred to the Irish Land <sup>Irish  
Church  
Fund.  
32 & 33  
Vict. c. 42.</sup>

44 & 45  
Vict. c. 71.

Commission by the Irish Church Amendment Act, 1881—shall so far as not paid out of the said property be charged on the Irish Consolidated Fund, and any of those charges guaranteed by the Treasury, if and so far as not paid, shall be paid out of the Exchequer of the United Kingdom.

(2) Subject to the existing charges thereon, the said Church property shall belong to the Irish Government, and be managed, administered, and disposed of as directed by Irish Act.

Local  
loans.

16.—(1) All sums paid or applicable in or towards the discharge of the interest or principal of any local loan advanced before the appointed day on security in Ireland, or otherwise in respect of such loan, which but for this Act would be paid to the National Debt Commissioners, and carried to the Local Loans Fund, shall, after the appointed day, be paid, until otherwise provided by Irish Act, to the Irish Exchequer.

(2) For the payment of the Local Loans Fund of the principal and interest of such loans, the Irish Government shall after the appointed day pay by half-yearly payments an annuity for *forty-nine* years, at the rate of *four* per cent., on the principal of the said loans, exclusive of any sums written off before the appointed day from the account of assets of the Local Loans Fund, and such annuity shall be paid from the Irish Exchequer to the Exchequer of the United Kingdom, and when so paid shall be forthwith paid to the National Debt Commissioners for the credit of the Local Loans Fund.

(3) After the appointed day, money for loans in Ireland shall cease to be advanced either by the Public Works Loan Commissioners or out of the Local Loans Fund.

Adaptation  
of Acts as  
to Local  
Taxation  
Accounts  
and Pro-  
bate, etc.,  
duties.  
See 50 & 51  
Vict. c. 41.  
54 & 55  
Vict. c. 48.

17.—(1) So much of any Act as directs payment to the Local Taxation (Ireland) Account of any share of Probate, Excise, or Customs duties payable to the Exchequer of the United Kingdom shall, together with any enactment amending the same, be repealed as from the appointed day without prejudice to the adjustment of balances after that day; but the like amounts shall continue to be paid to the Local Taxation Accounts in England and Scotland as would have

been paid if this Act had not passed, and any residue of the said share shall be paid into the Exchequer of the United Kingdom.

(2) The stamp duty chargeable in respect of the person- See 21 & 22  
 alty of a deceased person, shall not in the case of adminis- Vict. c. 86,  
 tration granted in Great Britain be chargeable in respect of ss. 12-18,  
 any personalty situate in Ireland; nor in the case of ad- 21 & 22  
 ministration granted in Ireland be chargeable in respect of Vict. c. 95.  
 any personalty situate in Great Britain; and any adminis- s. 29.  
 tration granted in Great Britain shall not, if re-sealed in 22 & 23  
 Ireland, be exempt from stamp duty on administration Vict. c. 31,  
 granted in Ireland, and any administration granted in s. 25.  
 Ireland shall not, when re-sealed in Great Britain, be 39 & 40  
 exempt from stamp duty on administration granted in Vict. c. 70,  
 Great Britain. ss. 41-44.

(3) In this section the expression 'administration' means probate or letters of administration, and as respects Scotland, confirmation inclusive of the inventory required under the Acts relating to the said stamp duty, and the expression 'personalty' means personal or movable estate and effects.

18.—(1) Bills for appropriating any part of the public revenue or for imposing any tax shall originate in the Legislative Assembly. Money bills and votes. A

(2) It shall not be lawful for the Legislative Assembly to adopt or pass any vote, resolution, address, or Bill for the appropriation for any purpose of any part of the public revenue of Ireland, or of any tax, except in pursuance of a recommendation from the Lord-Lieutenant in the Session in which such vote, resolution, address, or Bill is proposed.

19.—(1) Two of the judges of the Supreme Court in Ireland shall be Exchequer judges, and shall be appointed under the Great Seal of the United Kingdom; and their salaries and pensions shall be charged on and paid out of the Consolidated Fund of the United Kingdom. Exchequer judges for revenue actions, election petitions, etc.

(2) The Exchequer judges shall be removable only by Her Majesty on address from the two Houses of Parliament, and each such judge shall, save as otherwise provided by Parliament, receive the same salary and be entitled to the same pension as is at the time of his appointment fixed for

the puisne judges of the Supreme Court, and during his continuance in office his salary shall not be diminished, nor his right to pension altered, without his consent.

(3) An alteration of any rules relating to such legal proceedings as are mentioned in this section shall not be made except with the approval of Her Majesty the Queen in Council ; and the sittings of the Exchequer judges shall be regulated with the like approval.

(4) All legal proceedings in Ireland, which are instituted at the instance of or against the Treasury or Commissioners of Customs, or any of their officers, or relate to the election of members to serve in Parliament, or touch any matter within the powers of the Irish Legislature, or touch any matter affected by a law which the Irish Legislature have not power to repeal or alter, shall, if so required by any party to such proceedings, be heard and determined before the Exchequer judges or (except where the case requires to be determined by two judges) before one of them, and in any such legal proceeding an appeal shall, if any party so requires, lie from any Court of first instance in Ireland to the Exchequer judges, and the decision of the Exchequer judges shall be subject to appeal to Her Majesty the Queen in Council and not to any other tribunal.

(5) If it is made to appear to an Exchequer judge that any decree or judgment in any such proceeding as aforesaid has not been duly enforced by the sheriff or other officer whose duty it is to enforce the same, such judge shall appoint some officer whose duty it shall be to enforce the judgment or decree ; and for that purpose such officer and all persons employed by him shall be entitled to the same privileges, immunities, and powers as are by law conferred on a sheriff and his officers.

(6) The Exchequer judges, when not engaged in hearing and determining such legal proceedings as above in this section mentioned, shall perform such of the duties ordinarily performed by other judges of the Supreme Court in Ireland as may be assigned by Her Majesty the Queen in Council.

(7) All sums recovered by the Treasury or the Commissioners of Customs or any of their officers, or recovered

under any Act relating to duties of Customs, shall, notwithstanding anything in any other Act, be paid to such public account as the Treasury or the Commissioners direct.

*Post Office, Postal Telegraphs, and Savings Banks.*

20.—(1) As from the *appointed day* the postal and telegraph service in Ireland shall be transferred to the Irish Government, and may be regulated by Irish Act, except as in this Act mentioned and except as regards matters relating—

Transfer of  
post office  
and postal  
telegraphs.

- (a) To such conditions of the transmission or delivery of postal packets and telegrams as are incidental to the duties on postage ; or
- (b) To foreign mails or submarine telegraphs or through lines in connection therewith ; or
- (c) To any other postal or telegraph business in connection with places out of the United Kingdom.

(2) The administration of or incidental to the said excepted matters shall, save as may be otherwise arranged with the Irish Post Office, remain with the Postmaster-General.

(3) As regards the revenue and expenses of the postal and telegraph service, the Postmaster-General shall retain the revenue collected and defray the expenses incurred in Great Britain, and the Irish Post Office shall retain the revenue collected and defray the expenses incurred in Ireland, subject to the provisions of the Fourth Schedule to this Act ; which schedule shall have full effect, but may be varied or added to by agreement between the Postmaster-General and the Irish Post Office.

(4) The sums payable by the Postmaster-General or Irish Post Office to the other of them in pursuance of this Act shall, if not paid out of Post-Office moneys, be paid from the Exchequer of the United Kingdom or of Ireland, as the case requires, to the other Exchequer.

(5) Sections forty-eight to fifty-two of the Telegraph Act, 1863, and any enactment amending the same, shall apply to all telegraphic lines of the Irish Government in like manner as to the telegraphs of a company within the meaning of that Act.

26 & 27  
Vict. c. 112.

Transfer  
of savings  
banks.

21.—(1) As from the *appointed day* there shall be transferred to the Irish Government the post-office savings banks in Ireland, and all such powers and duties of any department or officer in Great Britain as are connected with post-office savings banks, trustee savings banks, or friendly societies in Ireland, and the same may be regulated by Irish Act.

(2) The Treasury shall publish not less than six months previous notice of the transfer of savings banks.

(3) If before the date of the transfer any depositor in a post-office savings bank so requests, his deposit shall, according to his request, either be paid to him or transferred to a post-office savings bank in Great Britain, and after the said date the depositors in a post-office savings bank in Ireland shall cease to have any claim against the Postmaster-General or the Consolidated Fund of the United Kingdom, but shall have the like claim against the Government and Consolidated Fund of Ireland.

(4) If before the date of the transfer the trustees of any trustee savings bank so request, then, according to the request, either all sums due to them shall be repaid, and the savings bank closed, or those sums shall be paid to the Irish Government, and after the said date the trustees shall cease to have any claim against the National Debt Commissioners or the Consolidated Fund of the United Kingdom, but shall have the like claim against the Government and Consolidated Fund of Ireland.

(5) Notwithstanding the foregoing provisions of this section, if a sum due on account of any annuity or policy of insurance which has before the above-mentioned notice been granted through a post-office or trustee savings bank, is not paid by the Irish Government, that sum shall be paid out of the Exchequer of the United Kingdom.

### *Irish Appeals and Decision of Constitutional Questions.*

Irish  
appeals.

22.—(1) The appeal from Courts in Ireland to the House of Lords shall cease; and where any person would, but for this Act, have a right to appeal from any Court in Ireland to the House of Lords, such person shall have the

like right to appeal to Her Majesty the Queen in Council; and the right so to appeal shall not be affected by any Irish Act; and all enactments relating to appeals to Her Majesty the Queen in Council, and to the Judicial Committee of the Privy Council, shall apply accordingly.

(2) When the Judicial Committee sit for hearing appeals from a Court in Ireland, there shall be present not less than four Lords of Appeal, within the meaning of the Appellate Jurisdiction Act, 1876, and at least one member who is or has been a judge of the Supreme Court in Ireland. 39 & 40  
Vict. c. 59.

(3) A rota of privy councillors to sit for hearing appeals from Courts in Ireland shall be made annually by Her Majesty in Council, and the privy councillors, or some of them, on that rota shall sit to hear the said appeals. A casual vacancy in such rota during the year may be filled by Order in Council.

(4) Nothing in this Act shall affect the jurisdiction of the House of Lords to determine the claims to Irish peerages.

23.—(1) If it appears to the Lord-Lieutenant or a Secretary of State expedient in the public interest that steps shall be taken for the speedy determination of the question whether any Irish Act, or any provision thereof, is beyond the power of the Irish Legislature, he may represent the same to Her Majesty in Council, and thereupon the said question shall be forthwith referred to and heard and determined by the Judicial Committee of the Privy Council, constituted as if hearing an appeal from a Court in Ireland. Special  
provision  
for decision  
of consti-  
tutional  
questions.

(2) Upon the hearing of the question such persons as seem to the Judicial Committee to be interested may be allowed to appear and be heard as parties to the case, and the decision of the Judicial Committee shall be given in like manner as if it were the decision of an appeal, the nature of the report or recommendation to Her Majesty being stated in open Court.

(3) Nothing in this Act shall prejudice any other power of Her Majesty in Council to refer any question to the Judicial Committee, or the right of any person to petition Her Majesty for such reference.



*Lord-Lieutenant and Crown Lands.*

Office of  
Lord-Lieu-  
tenant.

**24.**—(1) Notwithstanding anything to the contrary in any Act, every subject of the Queen shall be qualified to hold the office of Lord-Lieutenant of Ireland, without reference to his religious belief.

(2) The term of office of the Lord-Lieutenant shall be *six years*, without prejudice to the power of Her Majesty the Queen at any time to revoke the appointment.

Use of  
Crown  
lands by  
Irish  
Govern-  
ment.

**25.** Her Majesty the Queen in Council may place under the control of the Irish Government, for the purposes of that Government, such of the lands and buildings in Ireland vested in or held in trust for Her Majesty, and subject to such conditions or restrictions (if any) as may seem expedient.

*Judges and Civil Servants.*

Tenure of  
future  
judges.

**26.** A judge of the Supreme Court or other Superior Court in Ireland, or of any County Court or other Court with a like jurisdiction in Ireland, appointed after the passing of this Act, shall not be removed from his office except in pursuance of an address from the two Houses of Legislature of Ireland, nor during his continuance in office shall his salary be diminished or right to pension altered without his consent.

As to  
existing  
judges  
and other  
persons  
having  
salaries  
charged on  
the Con-  
solidated  
Fund.

**27.**—(1) All existing judges of the Supreme Court, County Court judges, and Land Commissioners in Ireland, and all existing officers serving in Ireland in the permanent Civil Service of the Crown and receiving salaries charged on the Consolidated Fund of the United Kingdom, shall, if they are removable at present on address from both Houses of Parliament, continue to be removable only upon such address, and if removable in any other manner shall continue to be removable only in the same manner as heretofore; and shall continue to receive the same salaries, gratuities, and pensions, and to be liable to perform the same duties as heretofore, or such duties as Her Majesty may declare to be analogous, and their salaries and pensions, if and so far as not paid out of the Irish Consolidated Fund,

shall be paid out of the Exchequer of the United Kingdom : Provided that this section shall be subject to the provisions of this Act with respect to the Exchequer judges.

(2) If any of the said judges, commissioners, or officers retires from office with the Queen's approbation before completion of the period of service entitling him to a pension, Her Majesty may, if she thinks fit, grant to him such pension, not exceeding the pension to which he would on that completion have been entitled, as to Her Majesty seems meet.

28.—(1) All existing officers in the permanent Civil Service of the Crown, who are not above provided for, and are at the appointed day serving in Ireland, shall, after that day, continue to hold their offices by the same tenure, and to receive the same salaries, gratuities, and pensions, and to be liable to perform the same duties as heretofore, or such duties as the Treasury may declare to be analogous ; and the said gratuities and pensions, and until three years after the passing of this Act, the salaries due to any of the said officers if remaining in his existing office, shall be paid to the payees by the Treasury out of the Exchequer of the United Kingdom.

As to persons holding Civil Service appointments.

(2) Any such officer may, after *three years* from the passing of this Act, retire from office, and shall, at any time during those three years, if required by the Irish Government, retire from office, and on any such retirement may be awarded by the Treasury a gratuity or pension in accordance with the Fifth Schedule to this Act : Provided that—

(a) Six months' written notice shall, unless it is otherwise agreed, be given either by the said officer or by the Irish Government, as the case requires ; and

(b) Such number of officers only shall retire at one time, and at such intervals of time as the Treasury, in communication with the Irish Government, sanction.

(3) If any such officer does not so retire, the Treasury may award him, after the said three years, a pension in accordance with the Fifth Schedule to this Act, which shall

become payable to him on his ultimate retirement from the service of the Crown.

(4) The gratuities and pensions awarded in accordance with the Fifth Schedule to this Act shall be paid by the Treasury to the payees out of the Exchequer of the United Kingdom.

(5) All sums paid out of the Exchequer of the United Kingdom in pursuance of this section shall be repaid to that Exchequer from the Irish Exchequer.

(6) This section shall not apply to officers retained in the service of the Government of the United Kingdom.

As to  
existing  
pensions  
and super-  
annuation  
allowances.

29. Any existing pension granted on account of service in Ireland as a judge of the Supreme Court or of any Court consolidated into that Court, or as a County Court judge, or in any other judicial position, or as an officer in the permanent Civil Service of the Crown other than in an office the holder of which is after the appointed day retained in the service of the Government of the United Kingdom, shall be charged on the Irish Consolidated Fund, and if and so far as not paid out of that fund, shall be paid out of the Exchequer of the United Kingdom.

### *Police.*

As to  
police.

30.—(1) The forces of the Royal Irish Constabulary and Dublin Metropolitan Police shall, when and as local police forces are from time to time established in Ireland in accordance with the Sixth Schedule to this Act, be gradually reduced and ultimately cease to exist as mentioned in that Schedule; and after the passing of this Act, no officer or man shall be appointed to either of these forces; Provided that until the expiration of *six* years from the appointed day, nothing in this Act shall require the Lord-Lieutenant to cause either of the said forces to cease to exist, if as representing Her Majesty the Queen he considers it inexpedient.

(2) The said two forces shall, while they continue, be subject to the control of the Lord-Lieutenant as representing Her Majesty, and the members thereof shall continue to receive the same salaries, gratuities, and pensions, and

hold their appointments on the same tenure as heretofore, and these salaries, gratuities, and pensions, and all the expenditure incidental to either force, shall be paid out of the Exchequer of the United Kingdom.

(3) When any existing member of either force retires under the provisions of the Sixth Schedule to this Act, the Treasury may award to him a gratuity or pension in accordance with that Schedule.

(4) Those gratuities and pensions and all existing pensions payable in respect of service in either force, shall be paid by the Treasury to the payees out of the Exchequer of the United Kingdom.

(5) Two-thirds of the net amount payable in pursuance of this section out of the Exchequer of the United Kingdom shall be repaid to that Exchequer from the Irish Exchequer.

### *Miscellaneous.*

31. Save as may be otherwise provided by Irish Act— Irish  
Exchequer  
Consolidated Fund  
and Audit.

(a) The existing law relating to the Exchequer and Consolidated Fund of the United Kingdom shall apply with the necessary modifications to the Exchequer and Consolidated Fund of Ireland, and an officer shall be appointed by the Lord-Lieutenant to be the Irish Comptroller and Auditor-General; and

(b) The accounts of the Irish Consolidated Fund shall be audited as appropriation accounts in manner provided by the Exchequer and Audit Departments Act, 1866, by or under the direction of such officer. 29 & 30  
Vict. c. 39.

32.—(1) Subject as in this Act mentioned and particularly to the Seventh Schedule to this Act (which Schedule shall have full effect), all existing election laws relating to the House of Commons and the members thereof shall, so far as applicable, extend to each of the two Houses of the Irish Legislature and the members thereof, but such election laws so far as hereby extended may be altered by Irish Act. Law appli-  
cable to  
both  
Houses of  
Irish Legis-  
lature.

(2) The privileges, rights, and immunities to be held and enjoyed by each House and the members thereof shall be such as may be defined by Irish Act, but so that the same

shall never exceed those for the time being held and enjoyed by the House of Commons, and the members thereof.

Supple-  
mental pro-  
visions as  
to powers  
of Irish  
Legisla-  
ture.

**33.**—(1) The Irish Legislature may repeal or alter any provision of this Act which is by this Act expressly made alterable by that Legislature, and also any enactments in force in Ireland, except such as either relate to matters beyond the powers of the Irish Legislature, or being enacted by Parliament after the passing of this Act, may be expressly extended to Ireland. An Irish Act notwithstanding it is in any respect repugnant to any enactment excepted as aforesaid, shall, though read subject to that enactment, be, except to the extent of that repugnancy, valid.

(2) An order, rule, or regulation, made in pursuance of, or having the force of, an Act of Parliament, shall be deemed to be an enactment within the meaning of this section.

(3) Nothing in this Act shall affect Bills relating to the divorce or marriage of individuals, and any such Bill shall be introduced, and proceed in Parliament in like manner as if this Act had not been passed.

Limitation  
of borrow-  
ing by local  
authorities.

**34.** The local authority for any county or borough or other area shall not borrow money without either—

- (a) A special authority from the Irish Legislature, or
- (b) The sanction of the proper department of the Irish Government;

and shall not, without such special authority, borrow :

(i.) In the case of municipal borough or town or area less than a county, any loan which together with the then outstanding debt of the local authority, will exceed twice the annual rateable value of the property, in the municipal borough, town, or area; or

(ii.) In the case of a county or larger area, any loan which together with the then outstanding debt of the local authority, will exceed one-tenth of the annual rateable value of the property in the county or area; or

(iii.) In any case a loan exceeding one-half of the above limits without a local inquiry held in the county, borough, or area by a person appointed for the purpose by the said department.

*Transitory Provisions.*

**35.—**(1) During *three* years from the passing of this Act, and if Parliament is then sitting until the end of that session of Parliament, the Irish Legislature shall not pass an Act respecting the relations of landlord and tenant, or the sale, purchase, or letting of land generally; Provided that nothing in this section shall prevent the passing of any Irish Act with a view to the purchase of land for railways, harbours, water-works, town improvements, or other local undertakings.

Temporary  
restriction  
on powers  
of Irish  
Legislature  
and Execu-  
tive.

(2) During *six* years from the passing of this Act, the appointment of a judge of the Supreme Court or other Superior Courts in Ireland (other than one of the Exchequer judges) shall be made in pursuance of a warrant from Her Majesty countersigned as heretofore.

**36.—**(1) Subject to the provisions of this Act Her Majesty the Queen in Council may make or direct such arrangements as seem necessary or proper for setting in motion the Irish Legislature and Government and for otherwise bringing this Act into operation.

Transitory  
provisions.

(2) The Irish Legislature shall be summoned to meet on the *first Tuesday in September, one thousand eight hundred and ninety-four*, and the first election of members of the two Houses of the Irish Legislature shall be held at such time before that day as may be fixed by Her Majesty in Council.

(3) Upon the first meeting of the Irish Legislature the members of the House of Commons then sitting for Irish constituencies, including the members for Dublin University, shall vacate their seats, and writs shall, as soon as conveniently may be, be issued by the Lord Chancellor of Ireland for the purpose of holding an election of members to serve in Parliament for the constituencies named in the Second Schedule of this Act.

(4) The existing Chief Baron of the Exchequer, and the senior of the existing puisne judges of the Exchequer Division of the Supreme Court, or if they or either of them are or is dead or unable or unwilling to act, such other of the judges of the Supreme Court as Her Majesty may appoint, shall be the first Exchequer judges.

(5) Where it appears to Her Majesty the Queen in Council, before the expiration of *one year* after the appointed day, that any existing enactment respecting matters within the powers of the Irish Legislature requires adaptation to Ireland, whether—

- (a) By the substitution of the Lord-Lieutenant in Council, or of any departments or office of the Executive Government in Ireland, for Her Majesty in Council, a Secretary of State, the Treasury, the Postmaster-General, the Board of Inland Revenue, or other public department or offices in Great Britain; or
- (b) By the substitution of the Irish Consolidated Fund or moneys provided by the Irish Legislature for the Consolidated Fund of the United Kingdom, or moneys provided by Parliament, or
- (c) By the substitution or confirmation by, or other act to be done by or to, the Irish Legislature for confirmation by or other act to be done by or to Parliament; or
- (d) By any other adaptation; Her Majesty, by Order in Council, may make that adaptation.

(6) Her Majesty the Queen in Council may provide for the transfer of such property, rights, and liabilities, and the doing of such other things as may appear to Her Majesty necessary or proper for carrying into effect this Act or any Order in Council under this Act.

(7) An Order in Council under this section may make an adaptation or provide for a transfer either unconditionally or subject to such exceptions, conditions, and restrictions as may seem expedient.

(8) The draft of every Order in Council under this section shall be laid before both Houses of Parliament for not less than two months before it is made, and such order when made shall, subject as respects Ireland to the provisions of an Irish Act, have full effect, but shall not interfere with the continued application to any place, authority, person, or thing, not in Ireland, of the enactment to which the Order relates.

**37.**—Except as otherwise provided by this Act, all

existing laws, institutions, authorities, and officers in Ireland, whether judicial, administrative, or ministerial, and all existing taxes in Ireland shall continue as if this Act had not passed, but with the modifications necessary for adapting the same to this Act, and subject to be repealed, abolished, altered, and adapted in the manner and to the extent authorised by this Act.

Continu-  
ance of  
existing  
laws,  
courts,  
offices, etc.

38.—Subject as in this Act mentioned the appointed day for the purposes of this Act shall be the day of the first meeting of the Irish Legislature, or such other day not more than *seven* months earlier or later as may be fixed by order of Her Majesty in Council either generally or with reference to any particular provision of this Act, and different days may be appointed for different purposes and different provisions of this Act, whether contained in the same section or in different sections.

Appointed  
day.

39.—In this Act unless the context otherwise requires—

Defini-  
tions.

The expression 'existing' means existing at the passing of this Act.

The expression 'constituency' means a parliamentary constituency or a county or borough returning a member or members to serve in either House of the Irish Legislature, as the case requires, and the expression 'parliamentary constituency' means any county, borough, or university returning a member or members to serve in Parliament.

The expression 'parliamentary elector' means a person entitled to be registered as a voter at a parliamentary election.

The expression 'parliamentary election' means the election of a member to serve in Parliament.

The expression 'tax' includes duties and fees, and the expression 'duties of excise' does not include licence duties.

The expression 'foreign mails' means all postal packets, whether letters, parcels, or other packets, posted in the United Kingdom and sent to a place out of the United Kingdom, or posted in a place out of the United Kingdom and sent to a place in the United Kingdom,



or in transit through the United Kingdom to a place out of the United Kingdom.

The expression 'telegraphic line' has the same meaning as in the Telegraphs Acts, 1863 to 1892.

The expression 'duties on postage' includes all rates and sums chargeable for or in respect of postal packets, money orders, or telegrams, or otherwise under the Post-office Acts or the Telegraph Act, 1892.

The expression 'Irish Act' means a law made by the Irish Legislature.

The expression 'election laws' means the laws relating to the election of members to serve in Parliament, other than those relating to the qualification of electors, and includes all the laws respecting the registration of electors, the issue and execution of writs, the creation of polling districts, the taking of the poll, the questioning of elections, corrupt and illegal practices, the disqualification of members, and the vacating of seats.

The expression 'rateable value' means the annual rateable value under the Irish Valuation Acts.

The expression 'salary' includes remuneration, allowances, and emoluments.

The expression 'pension' includes superannuation allowance.

Short title. **40.**—This Act may be cited as the Irish Government Act, 1893.

## SCHEDULES.

### FIRST SCHEDULE : LEGISLATIVE COUNCIL— CONSTITUENCIES AND NUMBER OF COUNCILLORS.

Constituencies.	Councillors.
Antrim County ... ..	Three
Armagh County ... ..	One
Belfast Borough ... ..	Two
Carlow County ... ..	One
Cavan County ... ..	One
Clare County ... ..	One

FIRST SCHEDULE—*Continued.*

Constituencies.	Councillors.
Cork County—	
East Riding ... ..	Three
West Riding ... ..	One
Cork Borough ... ..	One
Donegal County ... ..	One
Down County ... ..	Three
Dublin County ... ..	Three
„ Borough ... ..	Two
Fermanagh County ... ..	One
Galway County ... ..	Two
Kerry County ... ..	One
Kildare County ... ..	One
Kilkenny County ... ..	One
King's County ... ..	One
Leitrim and Sligo Counties ... ..	One
Limerick County ... ..	Two
Londonderry County ... ..	One
Longford County ... ..	One
Louth County ... ..	One
Mayo County ... ..	One
Meath County ... ..	One
Monaghan County ... ..	One
Queen's County ... ..	One
Roscommon County ... ..	One
Tipperary County... ..	Two
Tyrone County ... ..	One
Waterford County ... ..	One
Westmeath County ... ..	One
Wexford County ... ..	One
Wicklow County ... ..	One
	Forty-eight

The expression 'borough' in this schedule means an existing parliamentary borough. Counties of cities and towns not named in this Schedule shall be combined with the county at large in which they are included for Parliamentary elections; and if not so included, then with the county at large bearing the same name.

A borough named in this Schedule shall not for the purposes of this Schedule form part of any other constituency.

## SECOND SCHEDULE : IRISH MEMBERS IN THE HOUSE OF COMMONS.

Constituency.	Number of Mem- bers for House of Commons.
Antrim County ... ..	Three
Armagh County ... ..	Two
Belfast Borough (in divisions as mentioned below) ... ..	} Four
Carlow County ... ..	
Cavan County ... ..	One
Cavan County ... ..	Two
Clare County ... ..	Two
Cork County (in divisions as men- tioned below) ... ..	} Five
Cork Borough ... ..	
Donegal County ... ..	Two
Down County ... ..	Three
Dublin County ... ..	Two
„ Borough (in divisions as mentioned below) ... ..	} Four
Fermanagh County ... ..	
Galway County ... ..	One
„ Borough ... ..	Three
Kerry County ... ..	One
Kildare County ... ..	Three
Kilkenny County ... ..	One
„ Borough ... ..	One
King's County ... ..	One
Leitrim County ... ..	One
Limerick County ... ..	Two
„ Borough ... ..	Two
Londonderry County ... ..	One
„ Borough ... ..	One
Longford County ... ..	One
Louth County ... ..	One
Mayo County ... ..	Three
Meath County ... ..	Two
Monaghan County ... ..	Two
Newry Borough ... ..	One
Queen's County ... ..	One
Roscommon County ... ..	Two
Sligo County ... ..	Two
Tipperary County... ..	Three
Tyrone County ... ..	Three
Waterford County ... ..	One
„ Borough ... ..	One
Westmeath County ... ..	One
Wexford County ... ..	Two
Wicklow County ... ..	One
	<b>Eighty</b>

(1) In this Schedule the expression 'borough' means an existing parliamentary borough.

(2) In the parliamentary boroughs of Belfast and Dublin, one member shall be returned by each of the existing parliamentary divisions of those boroughs, and the law relating to the divisions of boroughs shall apply accordingly.

(3) The county of Cork shall be divided into two divisions, consisting of the East Riding and the West Riding, and three members shall be elected by the East Riding, and two members shall be elected by the West Riding; and the law relating to divisions of counties shall apply to these divisions.

THIRD SCHEDULE: FINANCE—IMPERIAL LIABILITIES,  
EXPENDITURE, AND MISCELLANEOUS REVENUE.

*Liabilities.*

For the purposes of this Act, 'Imperial liabilities' consist of :—

- (1) The funded and unfunded debt of the United Kingdom, inclusive of terminable annuities paid out of the permanent annual charge for the National Debt, and inclusive of the cost of the management of the said funded and unfunded debt, but exclusive of the Local Loans Stock and Guaranteed Land Stock, and the cost of the management thereof; and
- (2) All other charges on the Consolidated Fund of the United Kingdom for the repayment of borrowed money, or to fulfil a guarantee.

*Expenditure.*

For the purpose of this Act Imperial expenditure consists of expenditure for the following services :—

1. Naval and military expenditure (including Greenwich Hospital).
2. Civil expenditure, that is to say—
  - (a) Civil list and Royal family.

- (b) Salaries, pensions, allowances, and incidental expenses of—
- (i.) Lord-Lieutenant of Ireland.
  - (ii.) Exchequer judges in Ireland.
- (c) Buildings, works, salaries, pensions, printing, stationery, allowances, and incidental expenses of—
- (i.) Parliament ;
  - (ii.) National Debt Commissioners ;
  - (iii.) Foreign Office and diplomatic and consular service, including secret service, special services, and telegraph subsidies ;
  - (iv.) Colonial Office, including special services and telegraph subsidies ;
  - (v.) Privy Council ;
  - (vi.) Board of Trade, including the Mercantile Marine Fund, Patent Office, Railway Commission, and Wreck Commission, but excluding Bankruptcy ;
  - (vii.) Mint ;
  - (viii.) Meteorological Society ;
  - (ix.) Slave trade service.
- (d) Foreign mails and telegraphic communication with places outside the United Kingdom.

### *Revenue.*

For the purposes of this Act the public revenue to a portion of which Ireland may claim to be entitled consists of revenue from the following sources :—

1. Suez Canal shares or payments on account thereof.
2. Loans and advances to foreign countries.
3. Annual payments by British possessions.
4. Fees, stamps, and extra receipts received by departments, the expenses of which are part of the Imperial expenditure.
5. Small branches of the hereditary revenues of the Crown.
6. Foreshores.

## FOURTH SCHEDULE: PROVISIONS AS TO POST OFFICE.

(1) The Postmaster-General shall pay to the Irish Post Office in respect of any foreign mails sent through Ireland and the Irish Post Office shall pay to the Postmaster-General in respect of any foreign mails sent through Great Britain, such sum as may be agreed upon for the carriage of those mails in Ireland or Great Britain, as the case may be.

(2) The Irish Post Office shall pay to the Postmaster-General ;

(i.) One-half of the expense of the packet service and submarine telegraph lines between Great Britain and Ireland after deducting from that expense of the sum fixed by the Postmaster-General as incurred on account of foreign mails or telegraphic communication with a place out of the United Kingdom, as the case may be ; and

(ii.) Five per cent. of the expenses of the conveyance outside the United Kingdom of foreign mails, and of the transmission of telegrams to places outside the United Kingdom ; and

(iii.) Such proportion of the receipts for telegrams to places out of the United Kingdom as is due in respect of the transmission outside the United Kingdom of such telegrams.

(3) The Postmaster-General and the Irish Post Office respectively shall pay to the other of them on account of foreign money orders, of compensation in respect of postal packets, and of any matters not specifically provided for in this Schedule, such sums as may be agreed upon.

(4) Of the existing debt incurred in respect of telegraphs, a sum of five hundred and fifty thousand pounds, two and three quarters per cent. Consolidated Stock shall be treated as debt of the Irish Post Office, and for paying the dividends on and redeeming such stock there shall be paid half-yearly by the Irish Exchequer to the Exchequer of the United Kingdom an annuity of *eighteen* thousand pounds for *sixty* years, and such annuity when paid into

the Exchequer shall be forthwith paid to the National Debt Commissioners and applied for the reduction of the National Debt.

(5) The Postmaster-General and the Irish Post Office may agree on the facilities to be afforded by the Irish Post Office in Ireland in relation to any matters the administration of which by virtue of this Act remains with the Postmaster-General, and with respect to the use of the Irish telegraphic lines for through lines in connection with submarine telegraphs, or with telegraphic communication with any place out of the United Kingdom.

#### FIFTH SCHEDULE: REGULATIONS AS TO GRATUITIES AND PENSIONS FOR CIVIL SERVANTS.

#### SIXTH SCHEDULE:

##### PART I.—REGULATIONS AS TO ESTABLISHMENT OF POLICE FORCES AND AS TO THE ROYAL IRISH CONSTABULARY AND DUBLIN METROPOLITAN POLICE CEASING TO EXIST.

(1) Such local police forces shall be established under such local authorities and for such counties, municipal boroughs, or other larger areas, as may be provided by Irish Act.

(2) Whenever the Executive Committee of the Privy Council in Ireland certify to the Lord-Lieutenant that a police force, adequate for local purposes, has been established in any area, then, subject to the provisions of this Act, he shall within six months thereafter direct the Royal Irish Constabulary to be withdrawn from the performance of regular police duties in such area, and such order shall be forthwith carried into effect.

(3) Upon any such withdrawal the Lord-Lieutenant shall order measures to be taken for a proportionate reduction of the numbers of the Royal Irish Constabulary, and such order shall be duly executed.

(4) Upon the Executive Committee of the Privy Council

in Ireland certifying to the Lord-Lieutenant that adequate local police forces have been established in every part of Ireland, then subject to the provisions of this Act, the Lord-Lieutenant shall within six months after such certificate, order measures to be taken for causing the whole of the Royal Irish Constabulary to cease to exist as a police force, and such order shall be duly executed.

(5) Where the area in which a local police force is established is part of the Dublin Metropolitan Police District, the foregoing regulations shall apply to the Dublin Metropolitan Police in like manner as if that force were the Royal Irish Constabulary.

PART II.—REGULATIONS AS TO GRATUITIES AND PENSIONS  
FOR THE ROYAL IRISH CONSTABULARY AND DUBLIN  
METROPOLITAN POLICE.

SEVENTH SCHEDULE: REGULATIONS AS TO HOUSES OF THE  
LEGISLATURE AND THE MEMBERS THEREOF.

*Legislative Council.*

(1) There shall be a separate register of electors of councillors of the Legislative Council which shall be made, until otherwise provided by Irish Act, in like manner as the Parliamentary register of electors.

(2) Where, for the election of Councillors, any counties are combined so as to form one constituency, then until otherwise provided by Irish Act,

(a) The returning officer for the whole constituency shall be that one of the returning officers for Parliamentary elections for those counties to whom the writ is addressed, and the writ shall be addressed to the returning officer for the constituency with the largest population, according to the census of 1891.

(b) The returning officer shall have the same authority throughout the whole constituency as a returning officer to a Parliamentary election for a county has in the county.



(c) The registers of electors of each county shall jointly be the register of electors for the constituency.

(d) For the purposes of this Schedule 'county' includes a county of a city or town, and this Schedule, and the law relating to the qualification of electors, shall apply, as if the county of a city or town formed part of the county at large with which it is combined, and the qualification in the county of a city or town shall be the same as in such county at large.

(3) Writs shall be issued for the election of councillors at such time not less than one or more than three months before the day for the periodical retirement of councillors as the Lord-Lieutenant in Council may fix.

(4) The day for the periodical retirement of councillors shall, until otherwise provided by Irish Act, be the last day of August in every fourth year.

(5) For the purposes of such retirement, the constituencies shall be divided into two equal divisions, and the constituencies in each province shall be divided as nearly as may be equally between those divisions, and constituencies returning two or more members shall be treated as two or more constituencies, and placed in both divisions.

(6) Subject as aforesaid, the particular constituencies which are to be in each division shall be determined by lot.

(7) The said division and lot shall be made and conducted before the appointed day in manner directed by the Lord-Lieutenant in Council.

(8) The first councillors elected for the constituencies in the first division shall retire on the first day of retirement which occurs after the first meeting of the Irish Legislature, and the first councillors for the constituencies in the second division shall retire on the second day of retirement after that meeting.

(9) Any casual vacancy among the councillors shall be filled by a new election, but the councillor filling the vacancy shall retire at the time at which the vacating councillor would have retired.

*Legislative Assembly.*

(10) The Parliamentary register of electors for the time being shall, until otherwise provided by Irish Act, be the register of electors of the Legislative Assembly.

*Both Houses.*

(11) Until otherwise provided by Irish Act, the Lord-Lieutenant in Council may make regulations for adapting the existing election laws to the election of members of the two Houses of the Legislature.

(12) Annual sessions of the Legislature shall be held.

(13) Any peer, whether of the United Kingdom, Great Britain, England, Scotland, or Ireland, shall be qualified to be a member of either House.

(14) A member of either House may by writing under his hand resign his seat, and the same shall thereupon be vacant.

(15) The same person shall not be a member of both Houses.

(16) Until otherwise provided by Irish Act, if the same person is elected to a seat in each House, he shall, before the eighth day after the next sitting of either House, by written notice, elect in which House he will serve, and upon such election his seat in the other House shall be vacant, and if he does not so elect, his seat in both Houses shall be vacant.

(17) Until otherwise provided by Irish Act, any such notice electing in which House a person will sit, or any notice of resignation, shall be given in manner directed by the Standing Orders of the Houses, and if there is no such direction, shall be given to the Lord-Lieutenant.

(18) The powers of either House shall not be affected by any vacancy therein, or any defect in the election or qualification of any member thereof.

(19) Until otherwise provided by Irish Act, the holders of such Irish offices as may be named by Order of the Queen in Council before the appointed day, shall be entitled to be elected to and sit in either House, notwithstanding

that they hold offices under the Crown, but on acceptance of any such office the seat of any such person in either House shall be vacated unless he has accepted the office in succession to some other of the said offices.

*Transitory.*

(20) The Lord-Lieutenant in Council may, before the appointed day, make regulations for the following purposes :—

- (a) The making of a register of electors of councillors in time for the election of the first councillors, and with that object for the variation of the days relating to registration in the existing election laws, and for prescribing the duties of officers, and for making such adaptations of those laws as appear necessary or proper for duly making a register ;
- (b) The summoning of the two Houses of the Legislature of Ireland, the issue of writs and any other things appearing to be necessary or proper for the election of members of the two Houses ;
- (c) The election of a chairman (whether called Speaker, President, or by any other name) of each House, the quorum of each House, the communications between the two Houses, and such adaptation to the proceedings of the two Houses of the procedure of Parliament, as appears expedient for facilitating the conduct of business by those Houses on their first meeting ;
- (d) The adaptation to the two Houses and the members thereof of any laws and customs relating to the House of Commons or the members thereof ;
- (e) The deliberation and voting together of the two Houses in cases provided by this Act.

(21) The regulations may be altered by Irish Act, and also in so far as they concern the procedure of either House alone, by Standing Orders of that House, but shall, until altered, have effect as if enacted in this Act.

## NOTE I

FROM THE 'MEMOIRS OF THE LATE LORD SELBORNE'

(Part ii. pp. 261-263).

. . . Each new step Gladstone takes is, as it seems to me, more and more on the side of *moral* as well as political evil. Much as I disapproved of his surrender of last year to Parnell, I disapprove very much more of his present endeavour to prevent the restoration in the present stage of the Home Rule question, of the reign of law in Ireland, and of the *means* he is attempting to use for *that* purpose. Deliberate and organised obstruction in the House of Commons, and an attempt to overrule a majority against him there, of more than one hundred, by violent appeals to popular passions outside,—those appeals being supported by representing the cause of anarchy and conspiring against law as the cause of liberty,—by denying the existence of any case for strengthening the law, in the face of a complete and manifest paralysis of law by the power of a seditious organisation, into whose scale he has now thrown his whole influence,—and by denouncing, in the most violent terms, the principle of measures for the protection of the loyal, and for securing the due administration of justice, which are the same (in their general character, for it is not necessary here to go into questions of detail) with those by means of which he himself governed Ireland for the last years of his power, and far more consistent with all real ideas of liberty than the suspension of the Habeas Corpus Act, which he introduced in 1881. It was quite open to him (of course) to contend that, by the acceptance of his Home Rule scheme, the necessity for any such measures might be prevented, and that he prefers and insists upon that alternative,—so much as *that* was involved in his measures of last year ; but it is quite a different

thing to denounce the principle of maintaining law and government, and defending those who respect and obey law from the tyranny of conspirators against it, and making the ordinary criminal law of the country a reality and not a mere idle name,—‘as coercion,’ in the sense of an undue invasion of liberty. To do this, and to appeal *ad populum* against it from an overwhelming majority in Parliament is *Acheronta movere*, with a vengeance. . . . For a man who, with his attainments, his experience, his professions, his fifty years’ public service, his political education under some of the greatest and best men of the time, has three times filled the highest office in the State, and is now on the verge of the grave, so to end his career, seems to me more shocking and disheartening than anything else recorded in our history. It is only the old respect, and old attachment, which makes one search about for the possible explanations, in the workings of a very complex and intricate mind. If (as I trust) the Government and the House of Commons stand firm, all his efforts in the cause of anarchy will be in vain. • The clause as to removing trials to England may have to be given up; but the *permanence* of the Bill (its best feature of all) must remain, if any good is to be done. . . . I will spare you a long yarn about politics this time. The G.O.M. seems to be determined to pull the whole Irish house down, parliamentary government and all, unless he can have his own way. But I have no fear that he *will* have his way, just at present, whatever harm he may do in the endeavour. But the struggle is very disagreeable, as well as sharp.

## NOTE II

REPORT OF SPECIAL COMMISSION (Vol. iv. pp. 544, 545).

### *Conclusions of the Report of the Judges.*

We have now pursued our inquiry over a sufficiently extended period to enable us to report upon the several charges and allegations which have been made against the respondents, and we have indicated in the course of this statement our findings upon these charges and allegations, but it will be convenient to repeat

*seriatim* the conclusions we have arrived at upon the issues which have been raised for our consideration.

I. We find that the respondent members of Parliament collectively were not members of a conspiracy having for its object to establish the absolute independence of Ireland, but we find that some of them, together with Mr. Davitt, established and joined in the Land League organisation with the intention by its means to bring about the absolute independence of Ireland as a separate nation. The names of these respondents are set out on a previous page.

II. We find that the respondents did enter into a conspiracy by a system of coercion and intimidation to promote an agrarian agitation against the payment of agricultural rents, for the purpose of impoverishing and expelling from the country the Irish landlords who were styled the 'English Garrison.'

III. We find that the charge that 'when on certain occasions they thought it politic to denounce, and did denounce, certain crimes in public they afterwards led their supporters to believe such denunciations were not sincere' is not established. We entirely acquit Mr. Parnell and the other respondents of the charge of insincerity in their denunciation of the Phoenix Park murders, and find that the 'facsimile' letters on which this charge was chiefly based as against Mr. Parnell is a forgery.

IV. We find that the respondents did disseminate the *Irish World* and other newspapers tending to incite to sedition and the commission of other crime.

V. We find that the respondents did not directly incite persons to the commission of crime other than intimidation, but that they did incite to intimidation, and that the consequence of that incitement was that crime and outrage were committed by the persons incited. We find that it has not been proved that the respondents made payments for the purpose of inciting persons to commit crime.

VI. We find as to the allegation that the respondents did nothing to prevent crime and expressed no *bonâ fide* disapproval, that some of the respondents, and in particular Mr. Davitt, did express *bonâ fide* disapproval of crime and outrage, but that the respondents did not denounce the system of intimidation which led to crime and outrage, but persisted in it with knowledge of its effect.

VII. We find that the respondents did defend persons charged with agrarian crime, and supported their families, but that it has not been proved that they subscribed to testimonials for, or were intimately associated with, notorious criminals, or that they made payments to procure the escape of criminals from justice.

VIII. We find, as to the allegation that the respondents made payments to compensate persons who had been injured in the commission of crime, that they did make such payments.

IX. As to the allegation that the respondents invited the assistance and co-operation of and accepted subscriptions of money from known advocates of crime and the use of dynamite, we find that the respondents did invite the assistance and co-operation of and accepted subscriptions of money from Patrick Ford, a known advocate of crime and the use of dynamite, but that it has not been proved that the respondents, or any of them, knew that the Clan-na-Gael controlled the League or was collecting money for the Parliamentary Fund. It has been proved that the respondents invited and obtained the assistance and co-operation of the Physical Force Party in America, including the Clan-na-Gael, and in order to obtain that assistance, abstained from repudiating or condemning the action of that party.

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